

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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*Codification  
District of  
Columbia  
Official Code*

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To amend, on a temporary basis, 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 Temporary 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:

Note,  
§ 1-1001.02

“(22) The term “voting system” means:

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

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

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

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

“(iv) Determine specific system changes to be made to a system after the initial qualification of the system; and

“(v) Make available any materials to the voter such as notices, instructions, forms, or paper ballots.

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

Note,  
§ 1-1001.05

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

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

“(a)(1) Accurately maintain a single, uniform, official, interactive computerized voter registration list, which shall:

“(A) Serve as the official voter registration list for the conduct of all elections in the District;

“(B) Contain the name and registration information of every duly registered voter in the District and assign a unique identifier to each duly registered voter in the District;

“(C) Be defined and administered in accordance with the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat 1666; 42 U.S.C § 15301 *et seq.*), and pertinent federal and local law; and

“(D) Be coordinated with other agency databases within the District;”.

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

“(10) Be responsible for:

“(A) Providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to elections for federal office (including procedures relating to the use of the federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in the District;

“(B) Accepting valid voter registration applications, absentee ballot applications, and absentee ballots, including federal write-in absentee ballots, from all such individuals; and

“(C) Otherwise complying with the Uniformed and Overseas Citizens Absentee Voting Act of 1986, approved August 28, 1966 (112 Stat. 2681-877; 42 U.S.C. § 1873ff *et seq.*)”.

(C) Paragraph (13) is repealed.

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

“(i) The Board shall cause the following voting information to be publicly 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 date of 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, approved October 29, 2002 (116 Stat. 1708; 42 U.S.C § 15483);

“(5) General information on voting rights under applicable federal and District laws, including the right of individual to cast a special ballot and instructions on how 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 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 Election Assistance Commission, on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election. The report shall be transmitted by the Mayor to the Election Assistance Commission and shall be made available to the 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:

Note,  
§ 1-1001.07

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

“(A) The applicant’s driver’s license number in the case of an applicant who has been issued a current and valid driver’s license; or

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

“(2) If an applicant for voter registration has not been issued a current and valid driver’s license or a social security number, the Board shall assign the applicant a unique identifier which shall serve to identify the applicant for voter registration purposes and which shall be the same unique identifier provided for in section 5(a)(1).”.

(2) Subsection (b)(1) and (2) is amended as follows:

“(1) The Board shall prepare and use a registration application form that meets the requirements of the National Voter Registration Act of 1993, approved May 20, 1993 (107 Stat. 77; 42 U.S.C. § 1973gg *et seq.*), and the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat. 1666; 42 U.S.C § 15301 *et seq.*), and in which each request for information is readily understandable and can be satisfied by a concise answer or mark.

“(2) Mail-in voter registration application forms approved by the Board shall meet the requirements of the National Voter Registration Act of 1993, approved May 20, 1993 (107 Stat. 77; 42 U.S.C. § 1973gg *et seq.*), and the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat. 1666; 42 U.S.C § 15301 *et seq.*), shall be designed to provide an easily understood method of registering to vote by mail and shall be mailed to the Board with postage prepaid. These forms shall have printed on them, in bold face type, the penalties for fraudulently attempting to register to vote pursuant to section 14(a) and the National Voter Registration Act of 1993, approved May 20, 1993 (107 Stat. 7); 42 U.S.C. § 1973gg *et seq.*). If an applicant for voter registration fails to properly complete the mail voter registration form, the Board’s registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the

registration form 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 the extent required to enable each agency to verify the accuracy of the information provided 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 federal postcard applications from those persons eligible to vote absentee in federal elections held in the District of Columbia pursuant to the Uniformed and Overseas Citizens Absentee Voting Act of 1986, approved August 28, 1966 (112 Stat. 2681-877; 42 U.S.C. § 1873ff *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, at the time of registration, at the polling place, or when voting by mail, either a copy of a current and valid government-issued 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 any such forms of identification shall vote by special ballot. This paragraph shall not apply to individuals:

“(A)(i) Whose registration application includes either a driver’s license number or at least the last 4 digits of his or her social security number; and

“(ii) Whom the Board has been able to match the provided information with an existing identification record bearing the same number, name, and date of birth as provided in the registration application; or

“(B) 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) An individual who votes in an election for federal office as a result of a federal or local court order or any other order extending the time established for closing the polls by a District law in effect 10 days before the date of the election shall vote in the election by casting a special ballot. A ballot cast under the preceding sentence shall be separated and held apart from other special ballots cast by those 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, during regular business hours, the Board shall maintain a toll-free telephone service by which any voter who has voted a challenged or special ballot may learn of the Board's preliminary decision to count or reject his or her ballot along with the reason for each decision.”.

Note,  
§ 1-1001.09

(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 hearing authorized pursuant to this paragraph shall occur not earlier than 8 days, and not later than 10 days, after any election held pursuant to this act. The Board shall inform the voter of the date scheduled for the hearing and the manner by which he or she may learn of the Board's final decision to count or reject the voter's challenged ballot. The notice 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.”.

(3) 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, approved October 29, 2002 (116 Stat. 1666; 42 U.S.C § 15301 *et seq.*). The Board may implement additional standards if they do not conflict with those set forth in the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat. 1606; 42 U.S.C. § 15301 *et seq.*).”.

(e) Section 10(b)(1) (D.C. Official Code § 1-1001.10(b)(1)) is amended by striking the phrase “7:00 a.m. to 8:00 p.m.” and inserting the phrase “7:00 a.m. to 8:00 p.m., 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.” in its place.

Note,  
§ 1-1001.10

Sec. 3. This act shall have no fiscal impact.

Sec. 4. (a) This act shall take effect following approval by the Mayor (or in the 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

**ENROLLED ORIGINAL**

December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia