



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0453

Introduced 2/16/2005, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

10 ILCS 5/18A-15

Amends the Election Code. Provides that casting a provisional ballot in the incorrect precinct does not invalidate that ballot's votes for federal and statewide offices. Requires the State Board of Elections to adopt rules for the counting of those votes.

LRB094 09859 JAM 40116 b

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 (10 ILCS 5/18A-15)

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

8 (a) The county clerk or board of election commissioners
9 shall complete the validation and counting of provisional
10 ballots within 14 calendar days of the day of the election. The
11 county clerk or board of election commissioners shall have 7
12 calendar days from the completion of the validation and
13 counting of provisional ballots to conduct its final canvass.
14 The State Board of Elections shall complete within 31 calendar
15 days of the election or sooner if all the returns are received,
16 its final canvass of the vote for all public offices.

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

20 (1) The provisional voter cast the provisional ballot
21 in the correct precinct based on the address provided by
22 the provisional voter. Votes for federal and statewide
23 offices on a provisional ballot cast in the incorrect
24 precinct that meets the other requirements of this
25 subsection shall be valid and counted in accordance with
26 rules adopted by the State Board of Elections. As used in
27 this item, "federal office" is defined as provided in
28 Section 20-1 and "statewide office" means the Governor,
29 Lieutenant Governor, Attorney General, Secretary of State,
30 Comptroller, and Treasurer;

31 (2) The affidavit executed by the provisional voter
32 pursuant to subsection (b) (2) of Section 18A-10 is properly

1 executed; and

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

6 i. the provisional voter;

7 ii. an election judge;

8 iii. the statewide voter registration database
9 maintained by the State Board of Elections;

10 iv. the records of the county clerk or board of
11 election commissioners' database; or

12 v. the records of the Secretary of State.

13 (c) With respect to subsection (b) (3) of this Section, the
14 county clerk or board of election commissioners shall
15 investigate whether each of the 5 types of information is
16 available and record whether this information is or is not
17 available. If one or more types of information is available,
18 then the county clerk or board of election commissioners shall
19 obtain all relevant information from all sources identified in
20 subsection (b) (3). The county clerk or board of election
21 commissioners shall use any information it obtains as the basis
22 for determining the voter registration status of the
23 provisional voter. If a conflict exists among the information
24 available to the county clerk or board of election
25 commissioners as to the registration status of the provisional
26 voter, then the county clerk or board of election commissioners
27 shall make a determination based on the totality of the
28 circumstances. In a case where the above information equally
29 supports or opposes the registration status of the voter, the
30 county clerk or board of election commissioners shall decide in
31 favor of the provisional voter as being duly registered to
32 vote. If the statewide voter registration database maintained
33 by the State Board of Elections indicates that the provisional
34 voter is registered to vote, but the county clerk's or board of
35 election commissioners' voter registration database indicates
36 that the provisional voter is not registered to vote, then the

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

16 (d) In validating the registration status of a person
17 casting a provisional ballot, the county clerk or board of
18 election commissioners shall not require a provisional voter to
19 complete any form other than the affidavit executed by the
20 provisional voter under subsection (b) (2) of Section 18A-5. In
21 addition, the county clerk or board of election commissioners
22 shall not require all provisional voters or any particular
23 class or group of provisional voters to appear personally
24 before the county clerk or board of election commissioners or
25 as a matter of policy require provisional voters to submit
26 additional information to verify or otherwise support the
27 information already submitted by the provisional voter. The
28 provisional voter may, within 2 calendar days after the
29 election, submit additional information to the county clerk or
30 board of election commissioners. This information must be
31 received by the county clerk or board of election commissioners
32 within the 2-calendar-day period.

33 (e) If the county clerk or board of election commissioners
34 determines that subsection (b) (1), (b) (2), or (b) (3) does not
35 apply, then the provisional ballot is not valid and may not be
36 counted. The provisional ballot envelope containing the ballot

1 cast by the provisional voter may not be opened. The county
2 clerk or board of election commissioners shall write on the
3 provisional ballot envelope the following: "Provisional ballot
4 determined invalid."

5 (f) If the county clerk or board of election commissioners
6 determines that a provisional ballot is valid under this
7 Section, then the provisional ballot envelope shall be opened.
8 The outside of each provisional ballot envelope shall also be
9 marked to identify the precinct and the date of the election.

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

25 (h) As soon as the ballots have been counted, the election
26 judges or election officials shall, in the presence of the
27 county clerk or board of election commissioners, place each of
28 the following items in a separate envelope or bag: (1) all
29 provisional ballots, voted or spoiled; (2) all provisional
30 ballot envelopes of provisional ballots voted or spoiled; and
31 (3) all executed affidavits of the provisional ballots voted or
32 spoiled. All provisional ballot envelopes for provisional
33 voters who have been determined not to be registered to vote
34 shall remain sealed. The county clerk or board of election
35 commissioners shall treat the provisional ballot envelope
36 containing the written affidavit as a voter registration

1 application for that person for the next election and process
2 that application. The election judges or election officials
3 shall then securely seal each envelope or bag, initial the
4 envelope or bag, and plainly mark on the outside of the
5 envelope or bag in ink the precinct in which the provisional
6 ballots were cast. The election judges or election officials
7 shall then place each sealed envelope or bag into a box, secure
8 and seal it in the same manner as described in item (6) of
9 subsection (b) of Section 18A-5. Each election judge or
10 election official shall take and subscribe an oath before the
11 county clerk or board of election commissioners that the
12 election judge or election official securely kept the ballots
13 and papers in the box, did not permit any person to open the
14 box or otherwise touch or tamper with the ballots and papers in
15 the box, and has no knowledge of any other person opening the
16 box. For purposes of this Section, the term "election official"
17 means the county clerk, a member of the board of election
18 commissioners, as the case may be, and their respective
19 employees.

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