



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1252

Introduced 2/8/2011, by Sen. Michael W. Frerichs

SYNOPSIS AS INTRODUCED:

10 ILCS 5/18A-15

Amends the Election Code. Provides that, if a provisional voter is registered at an address other than the address contained in his or her affidavit, then the county clerk or board of election commissioners shall verify that there is no record of the provisional voter having cast a ballot at that election in the precinct associated with his or her previous address. Effective January 1, 2012.

LRB097 05166 HLH 45213 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. The provisional voter's affidavit
23 shall serve as a change of address request by that voter

1 for registration purposes for the next ensuing election if
2 it bears an address different from that in the records of
3 the election authority;

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

8 (3) the provisional voter is a registered voter at the
9 address provided in the provisional voter's affidavit or at
10 a different address in the State based on information
11 available to the county clerk or board of election
12 commissioners provided by or obtained from any of the
13 following:

- 14 i. the provisional voter;
15 ii. an election judge;
16 iii. the statewide voter registration database
17 maintained by the State Board of Elections;
18 iv. the records of the county clerk or board of
19 election commissioners' database; or
20 v. the records of the Secretary of State.

21 If the provisional voter is registered at an address other
22 than the address contained in his or her affidavit, then the
23 county clerk or board of election commissioners shall verify
24 that there is no record of the provisional voter having cast a
25 ballot at that election in the precinct associated with his or
26 her previous address.

1 (c) With respect to subsection (b) (3) of this Section, the
2 county clerk or board of election commissioners shall
3 investigate and record whether or not the specified information
4 is available from each of the 5 identified sources. If the
5 information is available from one or more of the identified
6 sources, then the county clerk or board of election
7 commissioners shall seek to obtain the information from each of
8 those sources until satisfied, with information from at least
9 one of those sources, that the provisional voter is registered
10 and entitled to vote. The county clerk or board of election
11 commissioners shall use any information it obtains as the basis
12 for determining the voter registration status of the
13 provisional voter. If a conflict exists among the information
14 available to the county clerk or board of election
15 commissioners as to the registration status of the provisional
16 voter, then the county clerk or board of election commissioners
17 shall make a determination based on the totality of the
18 circumstances. In a case where the above information equally
19 supports or opposes the registration status of the voter, the
20 county clerk or board of election commissioners shall decide in
21 favor of the provisional voter as being duly registered to
22 vote. If the statewide voter registration database maintained
23 by the State Board of Elections indicates that the provisional
24 voter is registered to vote, but the county clerk's or board of
25 election commissioners' voter registration database indicates
26 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

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

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

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

20 (g) Provisional ballots determined to be valid shall be
21 counted at the election authority's central ballot counting
22 location and shall not be counted in precincts. The provisional
23 ballots determined to be valid shall be added to the vote
24 totals for the precincts from which they were cast in the order
25 in which the ballots were opened. The validation and counting
26 of provisional ballots shall be subject to the provisions of

1 this Code that apply to pollwatchers. If the provisional
2 ballots are a ballot of a punch card voting system, then the
3 provisional ballot shall be counted in a manner consistent with
4 Article 24A. If the provisional ballots are a ballot of optical
5 scan or other type of approved electronic voting system, then
6 the provisional ballots shall be counted in a manner consistent
7 with Article 24B.

8 (h) As soon as the ballots have been counted, the election
9 judges or election officials shall, in the presence of the
10 county clerk or board of election commissioners, place each of
11 the following items in a separate envelope or bag: (1) all
12 provisional ballots, voted or spoiled; (2) all provisional
13 ballot envelopes of provisional ballots voted or spoiled; and
14 (3) all executed affidavits of the provisional ballots voted or
15 spoiled. All provisional ballot envelopes for provisional
16 voters who have been determined not to be registered to vote
17 shall remain sealed. The county clerk or board of election
18 commissioners shall treat the provisional ballot envelope
19 containing the written affidavit as a voter registration
20 application for that person for the next election and process
21 that application. The election judges or election officials
22 shall then securely seal each envelope or bag, initial the
23 envelope or bag, and plainly mark on the outside of the
24 envelope or bag in ink the precinct in which the provisional
25 ballots were cast. The election judges or election officials
26 shall then place each sealed envelope or bag into a box, secure

1 and seal it in the same manner as described in item (6) of
2 subsection (b) of Section 18A-5. Each election judge or
3 election official shall take and subscribe an oath before the
4 county clerk or board of election commissioners that the
5 election judge or election official securely kept the ballots
6 and papers in the box, did not permit any person to open the
7 box or otherwise touch or tamper with the ballots and papers in
8 the box, and has no knowledge of any other person opening the
9 box. For purposes of this Section, the term "election official"
10 means the county clerk, a member of the board of election
11 commissioners, as the case may be, and their respective
12 employees.

13 (Source: P.A. 93-574, eff. 8-21-03; 94-645, eff. 8-22-05;
14 94-1000, eff. 7-3-06.)

15 Section 99. Effective date. This Act takes effect January
16 1, 2012.