



## **PHOTO ID IN OHIO – THE “OHIO FAIR AND SECURE ELECTIONS ACT”**

On March 14, 2011, Rep. Bob Mecklenborg (R-Cincinnati) introduced HB 159, the “Ohio Fair and Secure Elections Act” that would require voters to present limited forms of non-expired government-issued photo ID before casting a ballot. If passed, Ohio’s voter identification requirements would be among the strictest in the nation. HB 159 is slated for a hearing on Tues. March 22, 2011.

Under the bill, only the following forms of ID would be acceptable to vote:

- Ohio driver’s license
- Ohio state ID
- Military ID
- US Passport<sup>1</sup>

HB159 would eliminate currently acceptable forms of ID, including out of state licenses, voter registration cards, notices from the election authority, utility bills, bank statements or other government documents that can effectively verify identity.

### **HB159 is unnecessary.**

- Ohio already requires all voters to show ID at the polls.<sup>2</sup> The law works. There is no evidence of voter impersonation fraud that could be addressed with a photo ID.<sup>3</sup>
- HB159 will not address any other types of voting improprieties that do exist, such as fraudulent voter registration. Voter applicants are thoroughly vetted at registration.
- Voter impersonation is a serious crime that carries stiff penalties.

### **HB159 will disenfranchise eligible voters.**

- As many as 11 percent of US citizens – an estimated 30 million individuals now – do not have government-issued photo identification.<sup>4</sup>
- As many as 887,000 of Ohio’s 8 million registered voters may lack a government-issued photo ID to vote.<sup>5</sup>

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<sup>1</sup> HB 159 (Ohio 2011), see, [http://www.legislature.state.oh.us/BillText129/129\\_HB\\_159\\_I\\_Y.pdf](http://www.legislature.state.oh.us/BillText129/129_HB_159_I_Y.pdf)

<sup>2</sup> R.C. 3505.18; See <http://www.sos.state.oh.us/SOS/elections/voterInformation/bringid.aspx>

<sup>3</sup> Lorraine C. Minnite, *The Myth of Voter Fraud*, Cornell Univ. Press (2010), showing that allegations of widespread voter impersonation fraud at the polls are unsupported by empirical evidence.

<sup>4</sup> Brennan Center for Justice at NYU School of Law, *Citizens Without Proof: A Survey of Americans’ Possession of Documentary Proof of Citizenship and Photo Identification*, (Nov. 28, 2006) [http://www.brennancenter.org/page/-/d/download\\_file\\_39242.pdf](http://www.brennancenter.org/page/-/d/download_file_39242.pdf)

<sup>5</sup> Ohio Secretary of State lists 8,063,613 registered voters as of 3/13/11. Ohio Statewide Voter File, [http://www2.sos.state.oh.us/pls/voter/f?p=111:1:272051655776556::NO:RP:P1\\_TYPE:STATE](http://www2.sos.state.oh.us/pls/voter/f?p=111:1:272051655776556::NO:RP:P1_TYPE:STATE)

- Racial minorities, the working poor, students, the elderly and people with disabilities are up to twice as likely to lack a non-expired government photo ID.<sup>6</sup> HB 159 fails to account for eligible voters who would be unable to acquire an acceptable ID.
- HB 159 requires those without ID to cast provisional ballots that won't be counted unless the voter returns to the election authority within 10 days with acceptable ID or signs an affidavit attesting to a religious objection against being photographed, but this does not assure that the vote will count. Many provisional ballots are not counted for reasons other than eligibility, such as being cast in the wrong precinct.

### **HB 159 is a de facto poll tax.**

- It costs about \$25 to get an Ohio driver's license or state ID.<sup>7</sup> While HB 159 requires the state to provide ID to those who attest that they cannot afford one, it is unconstitutional to require anyone – not just the indigent – expend any money in order to exercise the right to vote.<sup>8</sup> The cost for the state to provide such ID to the estimated 800,000 voters in Ohio who lack one will be substantial.
- To get a state ID, Ohio voters must present several underlying documents to verify identity, residency and citizenship<sup>9</sup> (such as a certified birth certificate), which can be costly, difficult - sometimes even impossible – to obtain. The legislation fails to provide a savings clause for eligible voters who cannot get an ID.

### **HB 159 will be expensive.**

- In the midst of an \$8 billion budget shortfall in Ohio this year, it is irresponsible to appropriate millions of dollars for an ineffective solution to a non-existent problem that stands to disenfranchise hundreds of thousands of eligible voters.
- The fiscal note for HB 159 grossly underestimates costs to the state. Other states have put implementation costs of photo ID laws at over \$20 million over three years.
- Costs the state will be required to incur include reaching out to and providing ID at no cost (at \$1.14 per card) to those without ID. This will cost \$500,000 even if only 5 percent of Ohioans lack ID. Other cost include substantial voter outreach and public education on the requirements (Missouri estimated \$16.9 million to effectively reach the state's 4 million voters); and costs for new training of election judges, changing of forms, increased processing of provisional ballots, hiring of additional election judges, expanding BMV hours, and other administrative costs.<sup>10</sup>

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<sup>6</sup> The Brennan Center study found that African Americans are more than twice as likely to lack adequate ID - 25% of African-American voting-age citizens – more than 5.5 million people – have no current government-issued photo ID. At least 15% of voting-age citizens earning less than \$35,000 per year do not have a non-expired government-issued photo ID. And 18% of American citizens age 65 and above – or more than 6 million seniors – do not have non-expired government-issued photo ID. *Citizens Without Proof, supra*, [http://www.brennancenter.org/page/-/d/download\\_file\\_39242.pdf](http://www.brennancenter.org/page/-/d/download_file_39242.pdf)

<sup>7</sup> See, Driver's License and Identification Card Fees, Ohio Bureau of Motor Vehicles, [http://www.bmv.ohio.gov/fees\\_for\\_services.stm](http://www.bmv.ohio.gov/fees_for_services.stm)

<sup>8</sup> *Harper v. Virginia State Board of Elections*, 383 U.S. 663, (1966), which ruled that that any tax or fee imposed on the right to vote presents an undue burden on the exercise of that right.

<sup>9</sup> See, Acceptable Documents List, Ohio Dept. of Public Safety, Bureau of Motor Vehicles, <http://publicsafety.ohio.gov/links/bmv2424.pdf>

<sup>10</sup> See, e.g., "The Cost of Voter ID Laws: What the Courts Say," Brennan Center for Justice, (Feb. 17, 2011), [http://www.brennancenter.org/content/resource/the\\_cost\\_of\\_voter\\_id\\_laws\\_what\\_the\\_courts\\_say/](http://www.brennancenter.org/content/resource/the_cost_of_voter_id_laws_what_the_courts_say/)