

Picture This

SB1256 requiring photo ID brings big costs and big headaches

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SB 1256 imposes burdensome new voter identification requirements, could cost Virginia millions of dollars to implement, and may ensnare Virginia in costly litigation. As currently drafted, this legislation would require photo proof of identification at the polling place.

In order to pass constitutional muster, a photo identification requirement must be accompanied by a number of actions on the part of the state in order to minimize the impact on potential voters.

This includes (1) the provision of free photo IDs to voters who do not have a valid photo ID, including making the process of getting an ID accessible and no-cost, and (2) undertaking a public education and outreach campaign to inform voters of the new requirements.

In addition to these constitutional requirements, Virginia would face new costs due to the need to (1) provide training to local election officials to ensure proper implementation of the new provisions and (2) process additional provisional ballots.

Based on estimates from other states, implementation of SB1256 could cost between \$7.3 million and \$21.8 million.

Costs and Legal Concerns

SB1256 states that the Board of Elections shall “Provide to each general registrar...voter registration cards containing the voter’s photograph and signature for those voters who do not have one of the

| The High Cost of Voter Photo ID | | |
|---------------------------------|---------------------------------------|---------------------------------------|
| | <u>Lower Bound</u> <u>Estimate</u> | <u>Upper Bound</u> <u>Estimate</u> |
| Provision of free IDs | \$ 6,737,300 | \$ 20,211,899 |
| Voter Education | \$250,000 | \$698,275 |
| Staff Training | \$21,233 | \$560,684 |
| Administration | \$286,120 | \$286,120 |
| TOTAL | \$7,294,653 | \$21,756,978 |

Source: TCI analysis of fiscal impact statements from VA, NC, MD, MN, MS, and WI.

forms of identification specified” and that “The Department of Motor Vehicles shall assist the State Board in providing voter registration cards containing the voter’s photograph and signature.”

Although SB1256 does not specify who would bear the costs of these new IDs, in order to pass constitutional muster the IDs must be provided free of charge to everyone without an acceptable ID¹.

Furthermore, in *Weinschenk v. Missouri* the Missouri Supreme Court found that the costs of obtaining the secondary documents necessary for providing identity (e.g., birth certificates), and therefore obtaining a photo ID to vote, are also equivalent to a poll tax unless the state (a) exempts voters from the requirement of presenting the underlying

documentation or (b) covers the cost of obtaining the underlying documentation to prove identity.

Nationally, 11 percent of adult U.S. citizens lack a government-issued photo identification. Another 10 percent of adult citizens with a photo ID do not have both their current address and current legal name on their identification (the elderly and

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African-Americans have lower rates of having photo IDs, while married women have lower rates of having their current legal name on their photo ID).

While SB1256 does not disqualify a person from voting who has a non-matching address, it would disqualify persons with non-matching names. Assuming half of the 10 percent of adult citizens without both the current address and current name have a non-matching name, a total of 16 percent of adult U.S. citizens either lack a government-issued photo identification or have one with a non-matching name. With 5,435,644 registered voters in Virginia as of December 2012, 869,703 currently registered Virginia voters would be forced to obtain a proper photo identification in order to vote.

According to the Virginia DMV, processing a driver's license renewal at a customer service center costs \$22.40². Although not identical to the process for applying for a non-driver photo identification card, we would expect the costs for drivers' license renewal processing to be less than or, at most, equal to the costs for producing a voter identification card with a photograph and signature.

Therefore, if we assume an in-person identification transaction cost of \$22.40 per person and approximately 869,000 registered Virginia voters without proper photo identification, then providing free IDs to those Virginians without a proper photo identification document would cost Virginia about \$19,465,600.

This \$19 million potential cost is before considering the costs to Virginia of paying for potential voters to obtain copies of the

underlying documents necessary to prove identity and obtain the photo ID, assuming doing so would be required to obtain the new photo id voter registration cards. Nationally, about 7 percent of U.S. citizens do not have ready access to a U.S. passport, naturalization papers, or birth certificates, with low-income individuals less likely to have access to one of the documents. Applying those rates to the estimated 869,703 registered Virginians without proper photo identification, approximately 60,879 registered Virginia voters would be entitled to free copies of the documents necessary to prove their identity for voting. Obtaining a copy of a Virginia birth certificate costs \$12. Assuming all of the voters were born in Virginia, providing one form of vital record per affected individual without proper underlying proof of identity would cost Virginia a further \$730,551. Furthermore, 34 percent of voting-age women in the United States who have some form of underlying documentation of citizenship do not have ready access to a document with their current legal name. If these women need to be provided with a copy of their marriage certificate in order to clear whatever hurdle Virginia erects for obtaining a photo voter registration card, that cost must also be borne by the state.

Based on these assumptions, the cost of providing free photo identifications and free access to copies of the underlying documents would be about \$20.2 million. Even if we assume that the rate of Virginia voters without proper identification is a third of these estimates (a Minnesota match of voter registration and motor vehicle records found seven percent of registered voters in Minnesota did not have a valid identification and a Missouri analysis found six percent of registered

voters had no photo identification on file with the state), the cost to Virginia of making photo identification available to voters would still be \$6.7 million.

Other Costs

The other major costs Virginia would face related to SB1256 include public education/outreach, training for local election officials, and the processing of additional provisional ballots.

Using Virginia's 2012 experience, where the governor and General Assembly made significant changes to voter ID requirements in the state, as well as fiscal impact statements from neighboring states on this issue, and the actual costs from states that have implemented photo identification requirements, it is possible to estimate the costs Virginia could face.

Voter Education/Outreach

Based on Virginia's experience with the 2012 voter ID changes, the Department of Planning and Budget has estimated that SB719—a more minor change to Virginia's voter identification requirements than is proposed in SB1256—would require the state to spend between \$250,000 and \$500,000 on voter education and outreach.

In Maryland³ and North Carolina⁴, the fiscal impact statements for proposed photo identification rules estimated education/outreach costs of \$500,000 and \$600,000, respectively. Adjusted for the relative size of the states' populations, the proportionate costs in Virginia would be \$698,275 and \$501,030, respectively. With Virginia, like Maryland, having a significant share of its population in the expensive Washington, DC media market, it is likely that Virginia's costs would be at the higher end of these ranges.

If, alternatively, we look at states that were early adopters of photo identification requirements, we see far higher costs. In Georgia, courts found that a simple system of public service announcements and fliers distributed at polling places was insufficient. Instead, the state was required to develop postcards, brochures, run paid radio advertisements, develop a website, and partner with libraries and nonprofits to inform voters of the changes.

Staff Training

Virginia has about 2,354 polling places. Virginia code requires there to be at least 3 election officers at each precinct. Some states have included staff training costs in their fiscal impact statements for their recent photo ID proposals. Minnesota⁵ estimated a cost of \$30,500 for education of election officials, mostly to produce a training video and extend the election judge training session. Nevada⁶ estimated a training cost of \$17,000. Wisconsin⁷ estimated a training cost of \$395,536 due to the need for full-time state staff to provide ongoing support for the local election officials and judges. Adjusted for Virginia's population, these estimates would mean a training cost in Virginia of between \$21,233 and \$560,684.

Provisional Ballot Processing

SB1256 would push voters who appear on the poll books and meet current voter ID requirements to voting provisionally. Although the exact fiscal impact of processing additional provisional ballots is difficult to estimate, these costs would need to be absorbed by the state or would pass down to cash-strapped localities. In addition to the processing costs

associated with new provisional ballots, such a major change in voting laws is likely to create both confusion and delays at the polls.

Administration and Legal Defense

Virginia's Board of Elections would have to design a new photo ID voter registration card. Last year, the FIS for HB569 estimated that it will cost the state Department of Motor Vehicles \$286,120 to design a new voter identification photo card.

Finally, because Virginia is subject to Section 5 of the Voting Rights Act, these laws will have to undergo pre-clearance from the Department of Justice. Defending this legislation could become extremely costly⁸, as other states that have imposed greater voter identification restrictions have spent years in court attempting to defend them⁹.

Endnotes

- 1 Common Cause I, 406 F. Supp. 2d at 1369-70
- 2 <http://www.dmv.state.va.us/webdoc/general/news/news.asp?id=6560>
- 3 Maryland HB 288, 2011 Session, http://mlis.state.md.us/2011rs/fnotes/bil_0008/hb0288.pdf
- 4 North Carolina HB 351, 2011 Session, <http://www.ncleg.net/Sessions/2011/FiscalNotes/House/PDF/HIN0351v5.pdf>
- 5 Minnesota HF 2010, 2011 Session, http://www.mmb.state.mn.us/bis/fnts_leg/2011-12/H0210_4A.pdf
- 6 Nevada BDR 24-778, 2011 Session, <http://www.leg.state.nv.us/Session/76th2011/FiscalNotes/5558.pdf>
- 7 Wisconsin SB 6, 2011 Session, <http://docs.legis.wisconsin.gov/2011/related/fe/sb6>
- 8 Press accounts report that South Carolina could spend more than \$1 million in its suit challenging the U.S. Dept of Justice's refusal to pre-clear that state's photo ID bill. <http://www.postandcourier.com/news/2012/jan/29/states-lawsuit-over-voter-id-could-cost-more-than>
- 9 See, for example, Georgia's case history, Common Cause/GA v. Billups (Common Cause I), 406 F. Supp. 2d 1326 (N.D. Ga. 2005); Common Cause/GA v. Billups (Common Cause III), 504 F.Supp.2d 1333 (N.D. Ga. 2007), 554 F.3d 1340 (11th Cir. 2009).

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