

Proof at the Polls

The requirement to show photo identification before voting is gaining popularity.

BY WENDY UNDERHILL

On the day the Missouri General Assembly passed his elections legislation, Senator Bill Stouffer made clear what he hoped the bill would accomplish.

“Our goal was not to make it hard to vote,” he said. “It was to make it easy to vote but hard to cheat.”

The legislation puts a constitutional amendment on the 2012 ballot that would allow Missouri to establish a photo voter ID law. If approved, Missouri will have one more reason to call itself the “Show Me State.”



SENATOR
BILL STOFFER
MISSOURI

The “easy to vote/hard to cheat” quip seems like a universal American principle, yet it was made in the context of one of this year’s most contentious political issues.

Voter ID is shorthand for laws that require voters to present some form of identification before they can cast a ballot, and it’s a political hot potato precisely because it gets at the heart of American democracy. Everybody has the right to vote; but exactly how everybody votes is for state legislatures to decide—including what identification is required.

Those who want to require voters to show identification, especially with a photo, say it’s a reasonable measure to prevent fraud.

“Even where there isn’t a problem, there’s a perception that there’s a problem,” says Stouffer.

Wendy Underhill tracks election issues for NCSL.



Passing this legislation is a way to boost confidence, he says, in the election system.

Opponents counter that little evidence exists to show voter fraud by impersonation is a serious problem. More important, they argue, is that voter identification requirements could make it harder for some lawful voters—especially the elderly, students, poor people and minorities—to vote. They also argue the costs associated with requiring voter ID may be difficult to calculate but are totally unnecessary.

Republicans more often support the requirement, while Democrats tend not to. Yet in Missouri, the distinction was blurred. The bill married photo voter ID requirements with early voting provisions.

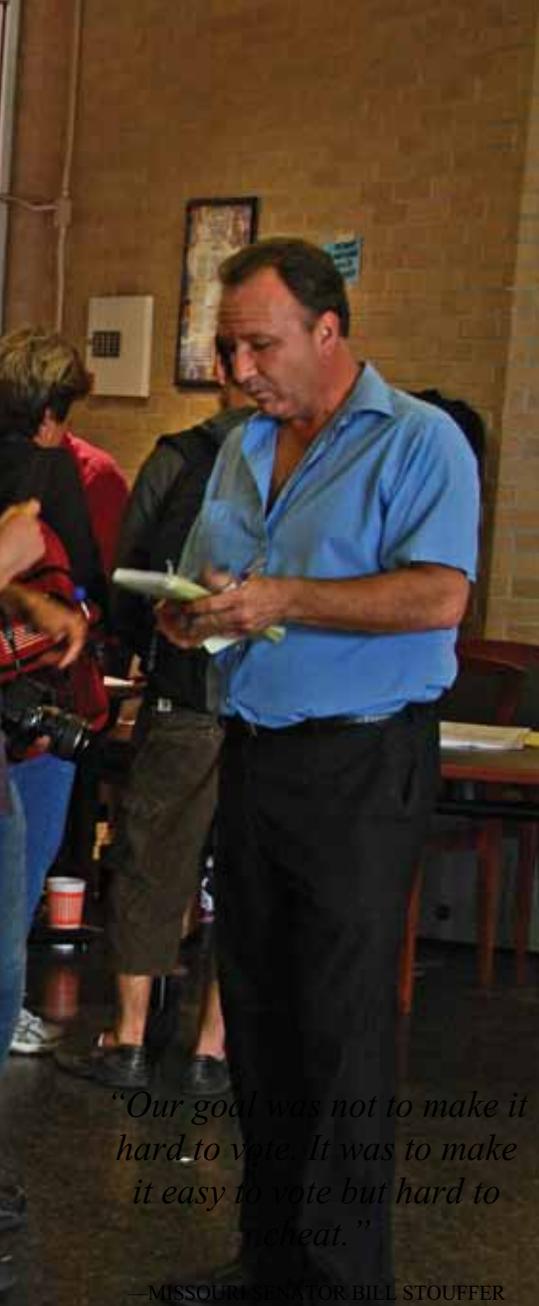
“It was a compromise,” says Stouffer. “The Rs wanted the photo ID, and the Ds wanted early voting.”

LAWS VARY

Voter ID requirements fall on a continuum. At one end are states such as New York that ask voters only to state their name and address, and sign the poll book so the signature can be verified against a digital signature. At the other end is Kansas, which will require voters to begin showing a photo ID in 2012 and to prove citizenship before registering to vote starting in 2013.

And in between? States use many ways to verify voter identity, and only some rely on a government-issued photo ID.

Still, there is a trend toward requiring more proof at the polls. In 2001, 16 states asked for some form of ID. Four wanted a photo ID, and 12 accepted other forms, such as Social Security cards, bank statements or utility bills. Voters who did not have IDs were permitted to vote by affidavit.



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By 2010, 27 states asked for ID, eight specifying one with a photo, and 19 accepting other forms. Indiana and Georgia require a photo and, if a voter can't show one, he or she must cast a provisional ballot that isn't counted unless the voter presents an acceptable photo ID at an elections office within a few days after the election.

Voter ID legislation was introduced in 34 states in the 2011 session, including many that already require non-photo IDs.

At press time, six states—Alabama, Kansas, South Carolina, Tennessee, Texas and Wisconsin—have either enacted new photo ID laws or added a photo requirement to existing voter ID laws.

Texas passed legislation this session to require a photo ID to vote, but it will take effect only after approval from the U.S. Department of Justice.

Representative Dan Flynn supports legislation so “everybody gets to vote once, and you can’t be dead to vote.”



REPRESENTATIVE
DAN FLYNN
TEXAS

A QUESTION OF FRAUD

How much fraud exists? Concrete data are hard to find, but election officials often say that elections will never be 100 percent fraud free. The 2005 Commission on Federal Election Reform—the Carter-Baker Commission—acknowledged voting by ineligible ex-felons or by people using false names, fake addresses or voting using the names of dead people has occurred. But it did say, “there is no evidence of extensive fraud in U.S. elections or of multiple voting, but both occur, and it could affect the outcome of a close election.”

The 2007 report, “The Truth About Voter Fraud,” from the Brennan Center for Justice, chases down many accounts of voter fraud and concludes that “allegations of widespread voter fraud, however, often prove greatly exaggerated.” John Fund, however, came to the opposite conclusion in his 2004 book “Stealing Elections: How Voter Fraud Threatens Our Democracy.”

In Arkansas, Representative Bryan King has used his experiences as an election commissioner to guide him on this issue. He has spon-

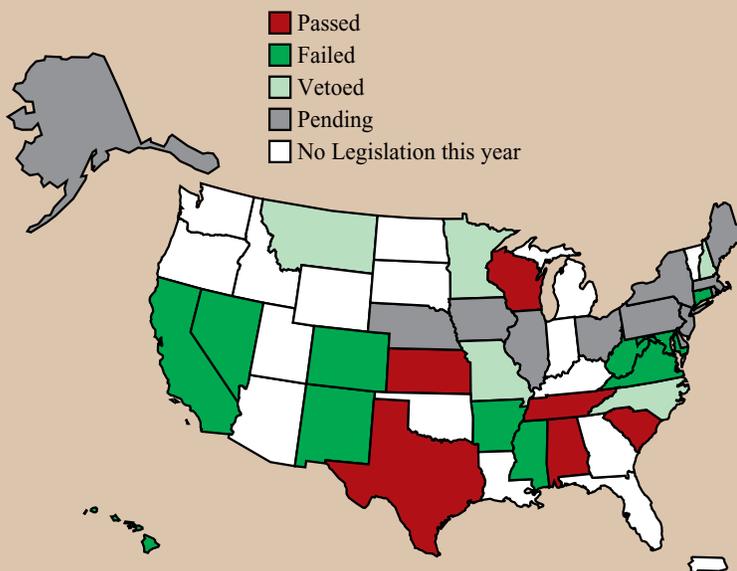
OTHER STEPS STATES CAN TAKE TO REDUCE ELECTION FRAUD

- ◆ Publicize existing election laws and the penalties associated with breaking them: five years in prison and up to a \$10,000 fine for fraud involving federal elections. For noncitizens who might try to vote, the penalty is likely to include deportation.
- ◆ Post the eligibility requirements to vote at the polling places, along with the acceptable forms of ID. Clarity is good for voters and good for poll workers, too.
- ◆ Start an elections hotline, such as Georgia’s Stop Voter Fraud Hotline.
- ◆ Modernize the state’s voting rolls so poll workers have up-to-the-minute data on the eligibility of those who show up to vote. The Pew Center on the States has just released a report, “Upgrading Democracy: Improving States’ Voter Registration Systems,” that provides one blueprint for modernizing voter registration systems.

sored photo voter ID legislation in three sessions. This year, it passed the House but died in the Senate.

“We had situations where a convicted felon tried to go in and vote and was turned away, so he went to another precinct and tried again,”

2011 PHOTO VOTER ID LEGISLATION



*Oregon, Wyoming, and Vermont are the only states that have never passed any voter ID legislation and do not have any legislation this year.

Source: NCSL, as of June 28, 2011.



REPRESENTATIVE
BRYAN KING
ARKANSAS

he says of his experience as a commissioner. “We had another voter who had left the state for some years. When he came back, election workers told him he’d been voting all along. He hadn’t, so who had been voting in his place?”

In the past, King says, “election workers were the best enforcers against voter fraud because they knew everybody in their small communities. But that is dying out, and in bigger precincts, people don’t know who is who.”

WHAT’S THE BIG DEAL?

For voters who have a driver’s license, state-issued ID card or passport, showing it at the polls is not a burden. According to a report from the Brennan Center for Justice, however, 11 percent or more of people do not have a government-issued photo ID.

In Indiana, for example, 1,039 Hoosiers arrived at the polls for the 2008 general election without valid identification and went on to cast a provisional ballot. Of those, only 137 ultimately had their provisional ballot counted, according to a 2009 study by Michael J. Pitts of Indiana University-Indianapolis.

Is preventing election fraud worth the hassle to voters in getting an ID? The answer depends on how much inconvenience is involved. Although all states that require a photo ID to vote provide them for free, voters may find it difficult and costly to obtain the necessary underlying identification, such as a copy of a birth certificate. People with disabilities may be particularly burdened by such laws because of the need to travel to a government office. For some Amish, Mennonites, Muslims, Native Americans, and fundamentalist Christians, posing for photographs is discouraged.

Missouri’s proposed constitutional amendment makes exceptions for people with religious objections, those living in nursing facilities and those born before 1941, and those for whom special circumstances make it impossible to get a copy of a birth certificate.

The key questions center on what effect these requirements will have on voter turnout and fraud.

Georgia can provide some answers. In the Peach Tree State, 50 percent of the voting-age population voted in 2004, and in 2008. Following enactment of photo ID legislation, 54.7 per-

cent voted, according to data from the U.S. Elections Project at George Mason University. Some say this proves the new requirements weren’t a barrier to very many voters. Others point out that having President Obama at the top of the ticket vastly increased turnout across the country in 2008, masking any effect the new voter ID law might have had in Georgia.

THE COURTS

Court opinions have been mixed on voter ID. In 2006, the Missouri Supreme Court found that provisions requiring a photo ID “unnecessarily burden the right to vote of Missourians who

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—SEAN GREENE, PEW CENTER
ON THE STATES’ ELECTION INITIATIVES

are properly registered,” and that the state had “already eliminated the opportunity to commit voter impersonation fraud” by complying with the federal Help America Vote Act of 2002 that requires identification when registering.

On the other hand, in 2008, the U.S. Supreme Court let stand the 2005 Indiana photo ID law in *Crawford v. Marion County Election Board*. The high court’s ruling left open the possibility of revisiting the law if voters who were hurt by it came forward.

More legal challenges to photo voter ID are likely. For laws to pass constitutional scrutiny by the courts, states may need to provide free IDs for those who do not have them. They also may be required to offer a sufficient number of opportunities for citizens to obtain IDs, provisions for those with religious objections, accommodations for people living in health care facilities, and a significant educational campaign to spread the word that new regulations are in place.

The cost, of course, is also an issue. Virtually all substantive legislation has some cost, and voter ID legislation is no exception. But measuring that cost is difficult and also very much a part of the discussion in states debating legislation.

“The price tag is anywhere from negligible or unable to estimate in some states, to nearly \$10 million in Missouri over two fiscal years, which includes lost revenue due to issuing free photo IDs,” says Sean Greene, research director for the Pew Center on the States’ Election Initiatives.

These costs largely stem from providing free IDs and developing voter education campaigns. States also may want to factor in potential court costs.

In Indiana and Georgia, the two states that have established photo voter ID with free ID cards, the costs are somewhat baffling, reports Greene. Georgia estimates its expenses at \$1.6 million over five years, whereas Indiana has spent more than \$10 million over five years just for free IDs. The states’ populations are roughly similar.

WHAT DO VOTERS WANT?

A big majority of Americans favor voter ID requirements. In Minnesota, 80 percent of respondents to a newspaper-based poll showed support earlier this year. In one small 2010 study conducted by the University of New Mexico, 52.5 percent of voters in that state ranked fraud prevention over ballot access.

Among his Texas constituents, Flynn says voter ID was one of the top four concerns for voters last year—along with border security, the financial crisis and jobs. Stouffer concurs: “It’s very popular in rural Missouri.”

Kansas Representative Ann Mah, a vocal opponent of these laws, ended up voting for one after “fixing as many holes as I could in the legislation to save Kansas some money down the road.” Her amendments included adding a voter education component, striking the requirement that people asking for a free ID prove they have low incomes, and moving the requirement to prove citizenship from 2012 to 2013 to give the state time to prepare.

But why did she vote for it at all? “My constituents told me, ‘My gosh, this is a common-sense thing’ and they wanted me to vote for it.”



REPRESENTATIVE
ANN MAH
KANSAS

SL ONLINE

Learn more about voter identification requirements across the country at www.ncsl.org/magazine.