

DATE: October 16, 2012

TO: Mayor and City Council

FROM: Councilor Betsey Buckheit

RE: Consider a resolution opposing the proposed constitutional amendment requiring photo ID before casting a ballot

In 2011, the Minnesota legislature passed a voter photo identification bill (SF89/HF210) establishing statutory requirements for voter identification and procedures to carry them out. This legislation was vetoed by Governor Mark Dayton.<sup>1</sup> who said:

In addition, this bill is an unfunded mandate on local units of governments at all levels-counties, cities, townships, and school boards. There is a \$23 million cost, documented with a local impact note from the Department of Management and Budget, that has been totally ignored. At a time when local governments are facing dramatic cuts, adding another mandate without any financial assistance is irresponsible.

Rather than try to override the veto or address the Governor's concerns, the legislature adopted a different strategy in 2012 and voted to present the issue, in a more restrictive form, to Minnesota voters in November 2012:<sup>2</sup>

“All voters voting in person must present valid government-issued photographic identification before receiving a ballot. The state must issue photographic identification at no charge to an eligible voter who does not have a form of identification meeting the requirements of this section. A voter unable to present government-issued photographic identification must be permitted to submit a provisional ballot. A provisional ballot must only be counted if the voter certifies the provisional ballot in the manner provided by law. All voters, including those not voting in person, must be subject to substantially equivalent identity and eligibility verification prior to a ballot being cast or counted.”

### **The proposed amendment**

The Minnesota Secretary of State's office has provided this analysis of the proposed amendment and what changes it will make to current voting rules:<sup>3</sup>

***1. “All voters voting in person must present valid government-issued photographic identification before receiving a ballot.”***

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<sup>1</sup> <http://mn.gov/governor/multimedia/pdf/Ch-69-SF509.pdf>

<sup>2</sup> <https://www.revisor.mn.gov/bin/bldbill.php?bill=H1597.0.html&session=ls87>

<sup>3</sup> <http://www.sos.state.mn.us/index.aspx?page=1731>

Minnesota's proposed amendment states clearly "ALL voters" without exception. All other states adopting photo ID laws have included a range of exemptions for groups likely to face difficulty such as military voters and nursing home residents. For Northfield, the "government-issued" requirement invalidates ID issued by either Carleton or St. Olaf College. The use of the constitutional amendment process rather than legislation means exemptions cannot be created except by additional amendments to the state Constitution and also that new forms of voter identification either existing or able to be developed in the future (biometric identification, for example) could also not be used under the amendment as proposed. The amendment would also prevent on-line voting or other technology-based changes to the electoral system. In other words, using a Constitutional amendment to put a new and complex process in place, does not allow technical changes or other updates even to ensure the process works as intended.

***2. "The state must issue photographic identification at no charge to an eligible voter who does not have a form of identification meeting the requirements of this section."***

Although the amendment makes the ID free to the voter, there are considerable costs to issuing the IDs which will be born by taxpayers. Indiana's voter ID law, for a state of similar size to Minnesota, cost the state \$10 million in the first 3 years to provide IDs.

***3. "A voter unable to present government-issued photographic identification must be permitted to submit a provisional ballot. A provisional ballot must only be counted if the voter certifies the provisional ballot in the manner provided by law."***

If a voter does not have valid, government issued photo ID, that person can vote by a provisional ballot which would be counted when or if it has been certified. If the voter merely forgot to take ID to the polls, that voter could return to the City Clerk to present ID and your ballot could be considered for inclusion. Otherwise, the voter would need to obtain valid identification before being able to certify the provisional ballot. For close elections, as often happens in Northfield, a few provisional ballots could delay results for an indefinite period of time.

Provisional ballots are required under the federal Help America Vote Act,<sup>4</sup> but they are significantly different from regular ballots. For traditional ballots "the moment it is cast, it becomes an individual's vote. On the other hand, the submission or casting of a provisional ballot is not a vote. Rather, it is a claim that the potential voter who submitted it has the right to vote and reserves that right."<sup>5</sup> At present, Minnesota does not have provisional balloting, so state and local government would need to create the rules and procedure.

***4. "All voters, including those not voting in person, must be subject to substantially equivalent identity and eligibility verification prior to a ballot being cast or counted."***

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<sup>4</sup> [http://www.fec.gov/hava/law\\_ext.txt](http://www.fec.gov/hava/law_ext.txt)

<sup>5</sup> Election Assistance Commission: [www.eac.gov/assets/1/workflow\\_staging/Page/337.PDF](http://www.eac.gov/assets/1/workflow_staging/Page/337.PDF)

The final provision applies the standards absentee voters or mail-in voting as well as in-person voting. No other state requires absentee voters to provide this kind of verification and how it would be implemented is unknown until additional legislation or rules are developed to establish guidelines. However, with more voters voting by absentee ballot, this area is one where fraud is considered most likely to occur.<sup>6</sup> This provision will also likely eliminate same day registration because of the “substantially equivalent” language. When voters pre-register, their registration information is verified in seven ways including whether the information is accurate, the voter has died, moved, is a citizen, not a felon, etc. To require “substantially equivalent” verification could not be conducted at the polling place, so the same day registration would require provisional ballots for all who wished to register on election day.<sup>7</sup>

Costs:

State government costs include an estimated at \$9.85 to produce each voter ID card. For the 215, 389 eligible voters estimated to lack valid ID, this would cost \$2,121,582 for the first election cycle.<sup>8</sup> State government would also fund an estimated \$1.7-\$3.5 million education campaign for voters and election workers.<sup>9</sup>

Counties will incur costs for provision balloting including staff costs, supplies, computers and preparing polling places for electronic pollbooks.<sup>10</sup> Fran Winschitl, Rice County Auditor-Treasurer, estimated the cost of electronic pollbooks alone would cost the county \$120,000.<sup>11</sup>

Trickling down to the local level, Northfield would pay for computer workstations (approx. \$4,000 per workstation) for using electronic rosters and pollbooks with at least 3 per polling place, supplies, additional election judges and training, and the on-going costs of maintaining this election infrastructure.<sup>12</sup>

Impact on Northfield

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<sup>6</sup> <http://www.nytimes.com/2012/10/07/us/politics/as-more-vote-by-mail-faulty-ballots-could-impact-elections.html?smid=pl-share>

<sup>7</sup> <http://www.sos.state.mn.us/index.aspx?page=1730>

<sup>8</sup> Some sources multiply the cost per card x the total number of eligible voters (about 3.8 million) for a much higher cost of about \$9 million. <http://www.ceimn.org/news/cost-proposed-elections-amendment>, p. 5. Indiana is used as an example spending about \$10 million the first 4 years and citing a cost of 2.15 to produce each card. The state budget analysis of one of the voter ID bills, SF509, assumed only lower numbers of eligible voters would apply for the ID. [http://www.mmb.state.mn.us/bis/fnts\\_leg/2011-12/S0509\\_0.pdf](http://www.mmb.state.mn.us/bis/fnts_leg/2011-12/S0509_0.pdf). The number above tries to walk a middle path by multiplying the Minnesota cost per card (most of which goes to staff time) by the number estimated to need the card.

<sup>9</sup> <http://www.ceimn.org/news/cost-proposed-elections-amendment> p. 5

<sup>10</sup> Ibid. p. 7

<sup>11</sup> [http://www.southernminn.com/faribault\\_daily\\_news/news/local/article\\_0e05edd0-33bb-5b26-b4cb-ba67f18253de.html](http://www.southernminn.com/faribault_daily_news/news/local/article_0e05edd0-33bb-5b26-b4cb-ba67f18253de.html)

<sup>12</sup> [http://www.mmb.state.mn.us/bis/fnts\\_leg/2011-12/S0509\\_0.pdf](http://www.mmb.state.mn.us/bis/fnts_leg/2011-12/S0509_0.pdf) p. 14.

The integrity of elections is critical, but voter fraud is rare in Minnesota.<sup>13</sup> The proposed amendment may reduce some kinds of voter fraud, but at a high cost to taxpayers at the state and local level, increased workload for local elections staff who will administer the new law, and disproportionate impact on Northfield because of its large populations of students and seniors.<sup>14</sup> For Northfield, about 22% of voters (or 2409 voters in 2008) register on election day; in some precincts, the number approaches 40%.<sup>15</sup> The at-large Council race in 2008 was decided by 12 votes; the County Commission race in 2006 was won by 9 votes; Al Franken won his Senate seat by 312 votes in 2008. Provisional balloting and its impact on Northfield and Minnesota will be significant.

Obviously, the passage or failure of the proposed amendment is up to the voters this November. The City Council's action on the proposed resolution could be a message to state legislators opposing placing an unfunded mandate to local government in the state constitution and registering concern about creating obstacles to voting for Northfield's student and senior populations. Council action may also help Northfield residents learn more about the amendment and consider the Council's concerns about the cost in dollars and to our citizens as they make their choice on election day.

Finally, because the Voter ID requirements are stringent, but untested as to procedure, effectiveness, and cost, the use of a constitutional amendment rather than legislation leaves no room for error.

“Changes to the state constitution are permanent. These changes cannot be reversed when the true impact of these laws on voters and on the budget are discovered. The solution proposed by proponents of the ballot measure changes the Minnesota constitution. No future legislature or court will be able to modify or change the rules. Future elected and judicial officials will not be able to respond to the needs of Minnesota's citizens to ensure all residents have full and fair access to the polls.”<sup>16</sup>

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<sup>13</sup> <http://votingrights.news21.com/interactive/election-fraud-database/> showing 10 cases of voter fraud in Minnesota since 2000. The majority of voter fraud cases nationwide are absentee ballot fraud and registration fraud which would not be prevented by voter ID laws.

<sup>14</sup> [http://www.brennancenter.org/content/section/category/voter\\_id](http://www.brennancenter.org/content/section/category/voter_id)

<sup>15</sup> See Attachment 1: 2008 election statistics

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[http://www.brennancenter.org/blog/archives/minnesota\\_election\\_law\\_ballot\\_measure\\_so\\_much\\_more\\_than\\_just\\_voter\\_id/](http://www.brennancenter.org/blog/archives/minnesota_election_law_ballot_measure_so_much_more_than_just_voter_id/)

2008 election statistics (old ward and precinct boundaries):<sup>17</sup>

Ward-Precinct	Election day registration	Presidential results	MN Congressional results	Comments
1-1	37.94% (203 persons)	17.79% Republican 79.59% Democrat	20.56% R 79.23% D	Carleton College
1-2	28.52% (512)	18.75% R 79.89% D	22.58% R 77.24% D	
2-1	13.2% (246)	35.95% R 62.96% D	39.27% R 60.73% D	
2-2	19.59% (256)	28.41% R 70.63% D	28.08% R 71.84% D	
3-1	31.96% (426)	20.05% R 77.629% D	24.24% R 75.39% D	St. Olaf
3-2	19.17% (184)	33.54% R 65.52% D	34.63% R 65.26% D	
3-3	16.62% (122)	32.65% R 66.67% D	36.87% R 63.13% D	Dakota County
4-1	19.13% (229)	21.11% R 76.879% D	24.19% R 75.629% D	
4-2	17.76% (231)	38.88% R 59.58% D	40.72% R 59.2% D	

<sup>17</sup> <http://www.minnpost.com/data/2012/03/mapping-voter-same-day-registrations-minnesota>