

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

STATE OF SOUTH CAROLINA,

Plaintiff,

v.

UNITED STATES OF AMERICA and ERIC
H. HOLDER, JR., in his official capacity as
Attorney General,

Defendants,

and

JAMES DUBOSE, *et al.*,

Defendant-Intervenors,

Civil Action No. 12- 203 (CKK-BMK-JDB)

**NOTICE OF FINAL PROCEDURES PURSUANT TO
SECTIONS 4, 7, AND 8 OF ACT R54**

The State of South Carolina respectfully submits this notice of final procedures in support of preclearance of Act R54 (attached as Exhibit A). The South Carolina Election Commission will use the final procedures described in this notice and in the Act itself upon preclearance of Act R54 to implement Sections 4, 7, and 8 of the Act. South Carolina submitted substantially similar materials to the Department of Justice in October 2011. In its letter of December 23, 2011, the Department stated that the Attorney General would make no determination with regard to Sections 4, 7, and 8 because the proposed procedures to implement those sections were not final. The proposed procedures are, in fact, final and will be implemented upon preclearance. These sections of the Act and implementing procedures further show that Act R54 has no discriminatory purpose and will not have discriminatory effects.

I. Section 4.

Section 4 of Act R54 requires the Election Commission to “implement a system in order to issue voter registration cards with a photograph of the elector.” This photo registration card “may be used for voting purposes only.” Attached hereto as Exhibit B is the Election Commission’s “Procedure for Issuing Photo Voter Registration Cards,” dated April 26, 2012. This procedure is final and will be put into effect upon preclearance of Act R54. The procedure allows a currently registered voter to obtain a photo registration card in one of three ways: (a) by presenting his or her current (non-photo) voter registration card; (b) by presenting any non-photo identification materials accepted for registration pursuant to the Help America Vote Act of 2002 (HAVA), Pub. L. No. 107-252, 116 Stat. 1666, such as a current utility bill, bank statement, paycheck, or government document showing the voter’s name and address; or (c) by providing the last four digits of his or her social security number and date of birth. The procedure also provides for issuing photo registration cards on Election Day.

Section 4 will take effect upon preclearance by the Department of Justice or this Court. See Act R54 § 11.

II. Section 7.

Section 7 of Act R54 provides that the Election Commission “must establish an aggressive voter education program concerning the provisions contained in” Act R54. The section requires posting information about the changes made by Act R54; training poll managers and poll workers and requiring them to disseminate “documentation describing the changes in this legislation . . . at every election held following preclearance”; coordinating with county boards of registration and elections to conduct two or more seminars in each county and with local and service organizations “to provide for additional informational seminars at a local or

statewide level”; placing advertisements describing the changes in “South Carolina newspapers of general circulation,” and coordinating “with local media outlets to disseminate information concerning the changes.” Act R54 § 7(1)-(7). Section 7 also requires the Commission to notify “each registered elector who does not have a South Carolina issued driver’s license or identification card . . . of the provisions of this act,” the requirements to vote “by absentee, early, or on election day,” a description of voting by provisional ballot, and the availability of a free photo ID. *Id.* § 7(8).

Attached hereto as Exhibit C is the Election Commission’s “Photo ID Voter Education Plan.” This plan describes the process that the Election Commission will follow to publicize the photo ID requirement and explain it to voters throughout the State. It includes sample literature, posters, and advertisements and explains the media strategy that the Commission will pursue. This plan has been developed based upon the approximately \$500,000 in funds already appropriated to the Commission by the General Assembly last year. The General Assembly is currently considering an additional appropriation of approximately \$500,000-\$600,000. If that appropriation is made, the Election Commission will expand its voter education plan.

Exhibit C also includes the postcards that will be used to notify registered voters without photo ID of the changes and the “Poll Manager’s Handbook Supplement” that will be distributed to poll workers.

III. Section 8.

Section 8 of Act R54 directs the Election Commission to “create a list containing all registered voters of South Carolina who are otherwise qualified to vote but do not have a South Carolina driver’s license or other form of identification containing a photograph issued by the Department of Motor Vehicles as of December 1, 2011.” The Election Commission’s current list

comprises approximately 200,000 registered voters across the State who might lack such photo identification. The Election Commission will create an updated list immediately upon preclearance and use the updated list for its voter education campaign.

The list is prepared by comparing the Election Commission's voter registration file containing voter names, social security numbers, and date of birth fields with a file from the Department of Motor Vehicles that includes name, address, social security number, and date of birth fields.

The Election Commission's voter registration file includes active and inactive voters. The list prepared pursuant to Section 8 includes all active voters and two categories of inactive voters. The inactive voters included are those whose records are marked inactive because either (a) the voter failed to respond to a confirmation card mailing (these inactive voters are coded "I-F" for failure to respond to confirmation mailing); or (b) election officials have sent a piece of mail to the voter and received a notice from the U.S. Postal Service that the forwarding address has expired or that the mail was undeliverable (these inactive voters are coded "I-M" to indicate that the voter has moved). The Commission includes these two categories of inactive voters (but not others) on the list created for purposes of Section 8 because these are the inactive voters most likely to present themselves in future elections. The Election Commission has described these and other inactive statuses by letter, which was submitted to the Department of Justice during administrative preclearance. *See* Exhibit D hereto. The Commission does not include archived inactive voter records in the comparison because the Commission's experience has been that few voters whose records have been archived present themselves to vote. *Id.*

Respectfully submitted,

/s/ H. Christopher Bartolomucci

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Dated: April 30, 2012

Counsel for the State of South Carolina

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2012, I filed the foregoing notice with the Court's electronic filing system, which will provide notice to all counsel of record.

/s/ H. Christopher Bartolomucci

H. Christopher Bartolomucci