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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

TROY KING
ATTORNEY GENERAL

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ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

Honorable Jamie Crockett, Chairman
Shelby County Board of Registrars
Post Office Box 1642
Columbiana, Alabama 35051

Registrars, Board of – Voter Registration –
Citizenship – Applicants

The Board of Registrars may examine each applicant and ask for further proof of citizenship even if a completed voter registration form is submitted by the applicant.

The Board of Registrars may refuse registration if an applicant fails to provide the additional proof of citizenship requested by the Board.

The Board of Registrars shall require the name, address, and telephone number of an interpreter who assists an applicant in completing the voter registration form.

A voter identification card issued by the Shelby County Board of Registrars that includes the name and address of the voter on the card is an “other government document” that may be used by the voter as voter identification under section 17-9-30 of the Code of Alabama, so long as it contains both the name and address of the voter.

Dear Ms. Crockett:

This opinion of the Attorney General is issued in response to your request.

QUESTIONS 1 AND 2

May the Board of Registrars (“Board “) examine an applicant and ask for proof of citizenship even if a completed voter registration form is submitted by the applicant?

May the Board of Registrars use the information provided pursuant to the “ID requested” and place of birth provisions of the Alabama voter registration forms as a basis for requiring proof of citizenship?

FACTS AND ANALYSIS

Section 17-3-52 of the Code of Alabama governs the examination and oath of applicants. It states, in pertinent part, as follows:

The board of registrars shall have power to *examine*, under oath or affirmation, all applicants for registration, and *to take testimony* touching the qualifications of such applicants, but no applicant shall be required to answer any question, written or oral, not related to his or her qualifications to register. In order to *aid* the registrars to *judicially determine* if applicants to register have the qualifications to register to vote, each applicant shall be furnished by the board a written application, which shall be uniform in all cases with no discrimination as between applicants, the form and contents of which application shall be promulgated by rule by the Secretary of State of the State of Alabama. The application shall be so worded that there will be placed before the registrars information necessary or proper to aid them to pass upon the qualifications of each applicant. . . .

ALA. CODE § 17-3-52 (2006) (emphasis added). This section grants the Board broad power to examine the qualifications of each applicant, while making clear that it is only the qualifications of the applicant that are relevant.

Section 17-3-6 of the Code of Alabama governs the judicial role of registrars and states, in pertinent part, that “[r]egistrars are *judicial* officers and shall act *judicially* in all matters pertaining to the registration of applicants.” ALA. CODE § 17-3-6 (2006) (emphasis added). This section also grants the Board general power in determining whether an applicant is qualified to register to vote.

The voter registration form is a tool designed to assist the Board in determining whether an applicant is eligible to vote by “plac[ing] before the registrars information necessary or proper to aid them to pass upon the qualifications of each applicant.” ALA. CODE § 17-3-52 (2006). The registration form is not the sole device that the Board is permitted to use. The Board may also question the applicant on his or her qualifications to vote, including citizenship, where the information provided on the voter registration form leads the Board to question the applicant’s qualifications. Voter registration is a judicial process, and the Board has a duty to judicially determine whether or not all applicants have met the qualifications. Any applicant who has not “*reasonably satisfied*” the Board that he or she is qualified to register should be refused registration [ALA. CODE § 17-3-54 (2006)] and informed of his or her right to appeal that determination [ALA. CODE § 17-3-55 (2006)].

The importance of an applicant’s citizenship to his or her qualification to vote is beyond dispute. The Alabama Constitution requires that voters be citizens of the United States. ALA. CONST. art. VIII, § 177 (amend. 579). As to federal elections, the Help America Vote Act of 2002 (“HAVA”) requires the voter registration form to include certain questions to determine the citizenship of the applicant. 42 U.S.C. § 15483(b)(4)(A)(i)-(iii) (2006). These questions must be answered in the affirmative. *Id.*

These requirements are reflected in the voter registration form itself. Directly below the title of the form lies the phrase, “FOR USE BY U.S. CITIZENS ONLY.” *State of Alabama Mail-In Voter Registration Form*, NVRA-2 (DOJ 8.22.2007). Below that, in a column on the right-hand side of the page, the form lists the requirements for registering to vote in Alabama. The first item is that the applicant must “[b]e a citizen of the United States.” *Id.* The first question on the form is, “[a]re you a citizen of the United States of America.” *Id.* That question is followed by a disclaimer that if a “no” answer is given, the application cannot be completed. The end of the form contains the “voter declaration,” which, again, requires the applicant to swear or affirm that he or she is a United States citizen.

You ask if the Board of Registrars is permitted to examine an applicant and request further proof of citizenship even if a completed voter registration form is submitted. If the Board has any question or concern about an applicant's qualifications, it is the Board's duty to inquire further into those qualifications. The Board has a broad range of power to determine an applicant's eligibility, and it must be used, without discrimination, to uphold the integrity of voter registration.

CONCLUSION

The Board of Registrars may examine each applicant and ask for further proof of citizenship, even if a completed voter registration form is submitted by the applicant.

QUESTION 3

If the response to Questions 1 or 2 is that the Board of Registrars is permitted to ask for additional proof of citizenship, may the Board refuse registration if an applicant fails to provide the additional proof of citizenship requested by the Board?

FACTS AND ANALYSIS

Section 17-3-54 of the Code of Alabama governs refusal of registration. It states, in pertinent part, as follows:

Any person making application to the board of registrars for registration who fails to establish by evidence to the *reasonable satisfaction* of the board of registrars that he or she is qualified to register, *may be refused registration*. The board shall give written notice to each applicant deemed unqualified, within 10 days of its refusal to register, stating the specific reason for such refusal.

ALA. CODE § 17-3-54 (2006) (emphasis added). This section places the burden and responsibility on the applicant to provide information sufficient to reasonably satisfy the Board that he or she is qualified to vote.

This section also provides that, in the event that an application is rejected, the Board must “give written notice to each applicant deemed unqualified, within 10 days of its refusal to register, stating the specific reason for such refusal.” *Id.* The applicant may then appeal the Board's decision “by filing a petition in the probate court in the county in which he or she seeks to register.” ALA. CODE § 17-3-55 (2006). That petition must “alleg[e] that he or she is a citizen of the United States over the age of 18 years having the qualifications as to residence prescribed by law and entitled to register to vote under the provisions of the Constitution of Alabama of 1901, as amended.” *Id.*

If the probate court determines that the applicant is qualified to register to vote, he or she is “entitled . . . to registration as of the date of his or her application to the registrars.” *Id.* If the probate court determines that the applicant is not qualified, then an appeal lies to the circuit court, where, again, if the applicant proves he or she is entitled to vote, his or her registration is effective as of the date of the original application. *Id.* “[A]ppeal[s] from the circuit court will lie with the Alabama Supreme Court.” *Id.*

This Office previously stated, “[i]f an applicant receives a notice that his or her application is rejected, the applicant may initiate a formal appeal. . . . If the error or omission on the first application was merely an oversight by the applicant, the applicant may choose to complete and submit a new voter registration application to the Board rather than file an appeal.” Opinion to Honorable Beth Chapman, State Auditor, dated January 20, 2006, A.G. No. 2006-042.

You ask whether the Board may refuse registration if an applicant fails to provide the additional proof of citizenship requested by the Board. An applicant who fails to provide this requested additional proof of citizenship has not reasonably satisfied the Board. Thus, it is the opinion of this Office that the Board of Registrars may refuse registration to an applicant who fails to provide the requested additional proof of citizenship.

CONCLUSION

The Board of Registrars may refuse registration if an applicant fails to provide the additional proof of citizenship requested by the Board. If the Board refuses registration, it must follow the notification and appeals procedure outlined in sections 17-3-54 and 17-3-55 of the Code.

QUESTION 4

May the Board of Registrars require the name and address of an interpreter when the applicant is able to sign his or her name?

FACTS AND ANALYSIS

You have informed this Office that on many occasions an applicant will require the aid of a interpreter/translator in completing the voter registration form. Section 17-3-52 of the Code of Alabama states that “[i]f the applicant is unable to read or write . . . a witness shall read to the applicant the application and oath.” ALA. CODE § 17-3-52 (2004). To comply with the statute, the Secretary of State included Box 13 on the voter registration form, which requires the name, address, and telephone number of the witness who assisted the applicant.

The fundamental rule of construction is to ascertain and give effect to the intent of the Legislature in enacting a statute. *Ex parte Ala. Dep’t of Mental Health & Mental Retardation*, 840 So. 2d 863, 867 (Ala. 2002). In construction of statutes, legislative intent may be gleaned from the language used, the reason and necessity for the act, and the purpose sought to be obtained. *Advertiser Co. v. Hobbie*, 474 So. 2d 93, 95 (Ala. 1985).

It was the Legislature’s intent to ascertain the contact information of those who assist applicants in completing their voter registration forms. The Legislature so intended to protect the integrity of the voter registration process. Therefore, it is the opinion of this Office that the Board of Registrars shall require the name, address, and telephone number of an interpreter/translator who aides an applicant in completing the voter registration form, even if the applicant is able to sign his or her name.

CONCLUSION

The Board of Registrars shall require the name, address, and telephone number of an interpreter/translator who assists an applicant in completing the voter registration form.

QUESTION 5

Can the voter identification card issued pursuant to section 17-3-51 of the Code of Alabama be considered an "other government document" that satisfies the voter identification requirement under section 17-9-30(b)(2) of the Code?

FACTS AND ANALYSIS

Section 17-9-30 of the Code of Alabama, referred to as the Voter Identification Law, requires voters to present some form of identification before voting. The acceptable forms of identification are set forth in this section, which states, in pertinent part, as follows:

(b) Each elector shall provide identification to an appropriate election official prior to voting. A voter required to show identification when voting in person shall present to the appropriate election official either of the following forms of identification:

(1) A current valid photo identification.

(2) A copy of a current utility bill, bank statement, government check, paycheck, or *other government document that shows the name and address of the voter*. The term "other government document" may include, *but is not limited to*, any of the following:

a. A valid identification card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the United States authorized by law to issue personal identification.

b. A valid United States passport.

c. A valid Alabama hunting or fishing license.

d. A valid Alabama permit to carry a pistol or revolver.

e. A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States.

f. A valid United States military identification card.

g. A certified copy of the elector's birth certificate.

h. A valid Social Security card.

i. Certified naturalization documentation.

j. A certified copy of court records showing adoption or name change.

k. A valid Medicaid card, Medicare card, or an Electronic Benefits Transfer Card (formerly referred to as a "food stamp card").

ALA. CODE § 17-9-30 (2006) (emphasis added).

This section provides that an acceptable government document must include the name and address of the voter. The examples of acceptable government documents that are given in this section do not include a voter registration card issued by the county board of registrars; however, the acceptable forms of identification are not limited to this list. ALA. CODE § 17-9-30(b)(2) (2006) (“[t]he term ‘other government document’ may include, but is not limited to . . .”). Therefore, the question is whether the voter registration card is an acceptable “other government document that shows the name and address of the voter.” *Id.*

This Office previously stated that the “voter registration card issued by the county board of registrars that includes the name and address of the voter on the card is an ‘other government document’ that may be used by the voter as voter identification under section [17-9-30] of the Code of Alabama.” Opinion to Honorable Don Davis, Mobile County Probate Judge, dated April 22, 2004, A.G. No. 2004-125. Accordingly, a voter identification card is an acceptable

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form of identification if both the name and address of the voter are listed on the card.

CONCLUSION

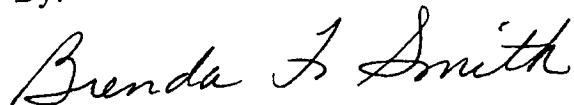
A voter identification card issued by the Shelby County Board of Registrars that includes the name and address of the voter on the card is an "other government document" that may be used by the voter as voter identification under section 17-9-30 of the Code of Alabama, so long as it contains both the name and address of the voter.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Noel S. Barnes of my staff.

Sincerely,

TROY KING
Attorney General

By:



BRENDA F. SMITH
Chief, Opinions Division

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