SECTION 5 RECOMMENDATION MEMORANDUM: August 25, 2005

Re: Act No. 53 (H.B. 244)(2005), which amends and provides: definitions of election terms, summaries of proposed constitutional amendments, duties of municipal governing authorities, training requirements for election officials, candidate qualification schedules and procedures, nonpartisan election schedules and procedures, ballot procedures and format, voter registration procedures, polling places and election equipment, voting method and machines for municipalities, absentee voting procedures, poll watchers, electioneering prohibitions, provisional voting requirements and procedures, voter information at polling places, majority vote requirement, special election procedures, penalties for violation of election code, Uniformed and Overseas Citizens Absentee Voting Act changes, and voter identification requirements.

TIME LIMIT

Submission Received: June 13, 2005
Supplemental Information Received:
- July 25, 2005
- July 28, 2005
- August 1, 2005
- August 22, 2005
Interim Letter Sent: August 2, 2005
Due Out Date: September 30, 2005

FACTUAL INVESTIGATION AND LEGAL REVIEW

By: Robert Berman, Deputy Chief
Amy Zubrensky, Trial Attorney
Heather Moss, Civil Rights Analyst
Joshua Rogers, Trial Attorney
Toby Moore, Geographer/Social Science Analyst

RECOMMENDATION: Objection to Section 59 (supported by Berman, Zubrensky, Moss, and Moore); no objection to remaining changes; no objection to all changes including Section 59 (supported by Rogers).

\[\text{\textsuperscript{\textcircled{\textdegree}}} A complete description and analysis of all changes other than Section 59, which amends the state's voter identification requirements, are contained in a separate memorandum, and the proposed letter informs state officials that no objection will be interposed to these changes.\]
I. BACKGROUND

A. Demographics and statistics

According to the 2000 Census, the State of Georgia has a total population of 8,186,453, of whom 2,348,626 (28.7%) are black and 5,128,661 (62.6%) are white. The state has a total voting age population of 6,017,219, of whom 1,595,631 (26.5%) are black and 3,925,585 (65.2%) are white. On August 11, 2005, the Census Bureau released its 2004 estimates of a total population for the state of 8,629,383, of whom 2,658,068 (30.1%) were black and 5,936,829 were white.

B. Benchmark standard, practice, or procedure

Voters in Georgia may present any one of the following 17 forms of voter identification to establish their eligibility to cast a ballot:

1. Valid Georgia driver's license;
2. Valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification;
3. Valid United States passport;
4. Valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, the State of Georgia, or any county, municipality, board, authority or other entity of Georgia;
5. Valid employee identification card containing a photograph of the elector issued by any employer of the elector in the ordinary course of business;
6. Valid student identification containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;
7. Valid Georgia license to carry a pistol or revolver;
8. Valid pilot's license;
9. Military ID;
10. Birth certificate;
11. Social security card;
12. Naturalization documentation;
13. Copy of court records showing adoption, name, or sex change;
14. Utility bill;
15. Bank statement showing name and address of the elector;
16. Government check or payment with name and address of the elector; or
17. Other government document showing name and address of the elector.

An elector who is unable to produce an acceptable form of identification may sign a statement under oath swearing and affirming that he is the person identified on the elector's voter certificate under penalty of law and may vote a regular ballot, unless he is a first time registrant by mail in which case he may vote a provisional ballot.

To vote absentee, an elector must qualify according to the following list of enumerated acceptable reasons:

* I am required to be absent from my precinct all day on primary or election day (7:00 a.m. to 7:00 p.m.).
* I am unable to vote in person because of a physical disability.
* I am unable to vote in person because I am required to give constant care to someone who is physically disabled.
* I am an election official who will perform official acts or duties in connection with the primary or election.
* I will be unable to be present at the polls because the date of the primary or election falls on a religious holiday which I observe.
* I will be unable to be present at the polls because I am required to be on duty in my place of employment for the protection of the health, life, or safety of the public during the entire time the polls are open and my place of employment is within my precinct.
* I am 75 years of age or older.
* I am a citizen of the United States permanently residing outside the United States, was last domiciled in Georgia, and am not domiciled or voting in any other state.
* I am a member of the Armed Forces or Merchant Marines of the United States, or a spouse or dependent of the member, residing outside the County.

These are the benchmark standards, practices, and procedures for our analysis.

C. Proposed standard, practice, or procedure


The proposed practice eliminates twelve forms of identification accepted under the benchmark practice and adds one new form, resulting in the six following forms of acceptable identification:

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² Under the benchmark practice, falsely swearing or affirming such a statement under oath is punishable as a felony. This penalty is distinctly set forth on the face of the statement. Additional penalties may apply (e.g., repeat voting in the same election, a violation of Ga. Code Ann. § 21-2-572, is punishable as a felony).
(1) Georgia driver’s license, which was properly issued by the appropriate state agency;
(2) Photographic identification card issued a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification;
(3) United States passport;
(4) A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, Georgia, or any county, municipality, board, authority or other entity of Georgia;
(5) United States military photographic identification card; or
(6) Tribal photographic identification card.

The identification need not contain the elector’s address. The affidavit of identity for electors who cannot produce acceptable photo identification is eliminated. As proposed, a voter who cannot produce an acceptable photo identification may vote a provisional ballot, but must thereafter produce a valid photographic identification to the registrar within 48 hours of the election in order for his vote to be counted.

Section 66 of the bill permits indigent persons who do not otherwise have approved photo identification and cannot afford to pay the fees to obtain such identification to receive one free of charge from the Georgia Department of Public Safety. Section 50 broadens the ability of electors to vote absentee without providing a reason. Absentee voters are not subject to the identification requirement, though “advance” voters who vote in person at clerks’ offices must present photo ID pursuant to these requirements.

Finally, there is a new provision applicable to first time voters who registered by mail and who have not otherwise verified their identification through government issued photographic identification. Such voters shall present to the poll workers one of the six forms of acceptable photographic identification listed above, or may present a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector. If the elector does not have any of the acceptable forms of identification, he may vote a provisional ballot upon swearing or affirming that the elector is the person identified in the elector’s voter certificate. Such provisional ballot shall only be counted if the voter is able to produce current and valid identification to the registrar for verification with 48-hours as provided Ga. Code Ann. § 21-2-419.

II. FACTS

A. Information obtained from the submitting authority

The state’s initial submission, received on June 13, 2005, consisted of a nine-page cover letter, copies of Act No. 53 including a “redlined” copy of the Act, charts identifying changes to
and the Section 5 history of each affected provision, a list of minority community contacts, newspaper articles regarding the legislative process, and editorials regarding the Act. The cover letter references the legislature’s website for the legislative history, including previous versions of the bill, proposed amendments, and roll call votes.

In its initial submission, the state indicated that the Act contains a number of provisions designed to clarify provisions of the Georgia Election Code in order to increase the efficiency of the electoral process, especially as it relates to municipal elections in many instances. The state also indicated that the state enacted the voter identification provisions to address legislative concerns regarding voter fraud.

During a June 25, 2005, telephone conversation with Deputy Attorney General Dennis Dunn (W), we requested information regarding the legislative history of the bill, including expert testimony, witness statements, and transcripts or tapes of hearings. The state provided this information on July 25, 2005. Upon our informal request, the state also provided a spreadsheet containing data from the Georgia Department of Driver’s Services (“DDS”) regarding persons holding valid driver’s licenses and state identification cards. We received these data on July 28, August 1, and August 22, 2005. The data are set forth in part II.C.2.

Additionally, Deputy Attorney General Dunn clarified that with regard to implementation of Subpart (c) of Section 59, first-time voters who had provided identification upon registering would be required to show photo identification at the polls, while those first-time voters who had not previously provided identification upon registration would be permitted to show any of the non-photo IDs listed in Subpart (c) (e.g. current utility bill, bank statement, government check, paycheck, or other government document) or a photo ID.

According to the Georgia General Assembly’s website, Representative Sue Burmeister (W) of Augusta sponsored HB 244. Numerous amendments were proposed during the bill’s consideration; a majority of the amendments were proposed by members of the Black Caucus who sought to retain some forms of voter identification that were eliminated by the bill. Senator Kasim Reed (B) also proposed an amendment making the identification requirement effective after the state appropriated funds to educate voters about the proposed identification and registration requirements. All of these proposed amendments failed.

The legislation passed the House on March 11, and the Senate on March 29, 2005. The vote on final passage in the House was 91 yea, 7 nay (with 9 abstaining and 5 excused), and in the Senate was 31 yea, 20 nay (with 2 abstaining and 3 excused). All black legislators with the exception of Representative Willie Talton voted against, abstained or were excused from voting on the bill. Of the three Hispanic legislators in the General Assembly, two, Senator Sam Zamarripa and Representative Pedro Martin, joined with the Black Caucus in opposing the bill. The third Hispanic legislator, Representative David Casas, supported the bill.
B. Information obtained from other sources

1. Proponents and Arguments in Favor of Preclearance

We received numerous letters from elected officials, both in the state legislature and in other offices, and private individuals expressing their views that the proposed legislation was not retrogressive either in purpose or effect. Many of the letters presented similar points in support of their position; all are set forth at Tab 6A to this memorandum. We have summarized those of state officials above, as well as a representative sample of letters from other supporters.

Representative Burmeister, the sponsor of the legislation, informed Voting Section staff that September 11 caused her to reflect on the case with which the terrorists obtained IDs. She stated that voter fraud is serious but hard to prove because fraud, by its nature, is subversive. She is aware of vote buying in certain precincts, and specifically related an incident in which the former mayor of Augusta, Mayor Ed McIntyre, approached her and offered to put her name on a palm card, pick up voters in a van, and pay them to vote for the candidates on the card, in exchange for $2,000. Rep. Burmeister also read “Stealing Elections” by John Fund and was concerned about how elections could be stolen by such means. Rep. Burmeister said that if there are fewer black voters because of this bill, it will only be because there is less opportunity for fraud. She said that when black voters in her black precincts are not paid to vote, they do not go to the polls. She added the 48-hour provisional ballot allowance so that people who legitimately have identification can vote in response to concerns about voters whose identification is stolen.

Rep. Burmeister also explained the exemption of absentee ballots from the identification requirement. She does not support this but accepted this into the final version because the absentee voting process creates a paper trail which will prevent vote fraud, and will ensure that rural voters can vote even if they cannot make it to a DDS office. Senator Cecil Staton (W), who authored the parallel Senate bill, supports preclearance and provided a letter mirroring the arguments made by Rep. Burmeister.

Susan Laccetti Meyers, Chief Policy Advisor to the Georgia House of Representatives, who worked with Rep. Burmeister in developing the legislation, told us that the Legislature did not conduct any statistical analysis of the effect of the photo ID requirement on minority voters. Instead, they relied on the statistic that more citizens had driver’s licenses than were registered to

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2 Rep. Burmeister stated that the Governor had passed legislation to mandate a DDS office in every county, and that individuals can obtain state IDs in Kroger grocery stores. Neither statement is correct. The Governor’s Office has confirmed that the Georgia General Assembly has passed no legislation mandating a DDS office in every county. The latter statement refers to a program that was discontinued in 2003 whereby the state had operated satellite driver’s license renewal centers in some Kroger stores.
vote, the John Fund book, and other anecdotal information. Members of the leadership noted that citizens need identification for everything these days, so concluded that the requirement did not seem arduous. In addition, Rep. Talton (B) told her that minorities were more vulnerable to having mail, such as bills and checks, stolen from their mailboxes. She said that private-sector employee and student ID cards were eliminated because members felt insecure about private sector controls, and believed that procedures used by government entities would be more reliable. She said that legislators heard testimony from several county election board members about the potential for vote fraud; and also considered the experience of states such as Florida, Wisconsin, and Indiana with voter ID laws, along with the National Conference of State Legislatures list of state voter ID requirements. Ms. Meyers said that opponents simply denied that there was any fraud of which they were aware, but did not present evidence or witnesses to contradict the evidence that proponents brought forth.

Representative Talton (B), who is Chief Deputy Sheriff in the Houston County Sheriff’s Department, supports preclearance. He said that identity fraud is common, and that officers in Houston County arrest individuals every day with fraudulent driver’s licenses and IDs. He concludes that the law is color blind, and does not unduly burden any race, class, or ethnic group.

We received several comment letters from members and directors of county boards of registrars, including Gary J. Smith, Director of Registrations and Elections of Forsyth County, and Frank Strickland and Harry MacDougald, members of the Fulton County Board of Registrations and Elections. The registrars emphasized that requiring photo ID would diminish the potential for fraud. Each provided the following additional information.

Mr. Smith reviewed the affidavits of identity that had been used by voters who lacked identification at the November 2004 election. In Forsyth County, 37 voters had signed affidavits of identity in lieu of presenting identification. This constituted 0.08 percent of those voting at precincts (i.e., excluding absentee and early voters) in Forsyth County.

Mr. Strickland stated that 2,456 fraudulent voter registration forms were submitted to the Fulton County elections board prior to November 2004. These have been referred to the FBI. Mr. Strickland also stated that he relied on data from the Secretary of State that showed 6,675,100 driver’s licenses and state identification cards issued to Georgians aged 18 or older, and 4,414,663 Georgians registered to vote, as of February 2005. He concluded that these numbers demonstrate that an overwhelming majority of registered voters already have a state-issued ID.

Mr. MacDougald stated that prior to November 2004, Fulton County received 8,112 applications containing “missing or irregular” information. The board sent letters to all 8,112 applicants and received only 55 responses. Mr. MacDougald concluded that all of the remaining applications were “bogus.” He also stated that 15,237 of 105,553 precinct cards mailed to registered voters in the county were returned as undeliverable. In addition, 3,071 precinct cards
mailed to 45,907 new registrants were returned as undeliverable. Of those 3,071 returned cards, 921 persons voted. He concludes that 11,128 total registration applications were either "bogus or problematic in a serious way" and that this crisis will be addressed by requiring photo identification for voter registration.

2. Proponents and Arguments in Favor of Objection

As with those who support the legislation, we received many letters from elected officials, organizations and individuals urging the Attorney General to interpose an objection to the proposed changes. Many of the letters presented similar points which are summarized below; the complete set of letters are set forth at Tab 6B. Opponents of the changes argue that the proposed changes are regressive in both purpose and effect based on the following factors: (1) the discrepancy between black and white ownership of photo identification; (2) the discrepancy between black and white access to motor vehicles as a proxy for driver’s license ownership; (3) the poverty gap between blacks and whites, which both causes blacks to have less ownership of acceptable photo ID, and creates higher barriers for blacks without ID to obtain it; and (4) the ineffectiveness of the mitigating factors (i.e., no-fault absentee voting and free ID for indigent persons) to counteract the potential regressive effects on minority voters.

Representative Stan Watson (B), Chairman of the Georgia Legislative Black Caucus, stated that proponents provided no evidence to support the elimination of each form of identification. They spoke only generally about voter fraud and mail being stolen. He responded that mail is stolen for financial gain (credit card fraud, benefit checks, etc.) and that persons are unlikely to risk being caught by using stolen mail to impersonate a voter. Rep. Watson believes that proponents knew they had a majority and thus made little effort to gain support during the legislative process, and that this bill is an attempt to test Section 5.

Senator Ed Harbison (B) can testify that many of his constituents do not drive or have a non-driver's identification card, though they have types of ID that are eliminated. Senator Harbison stated that the majority would not hear the concerns of the Black Caucus during consideration of the bill, so they staged a walk out of the proceedings, which was reported nationally.⁴

⁴ Media accounts reflect that members of the Georgia Legislative Black Caucus expressed outrage at the enactment of the revisions to the photographic identification provisions. African-American and some white Democratic lawmakers staged walkouts in the House and Senate on March 11, 2005, to protest the photo identification requirements that they likened to poll taxes. Nancy Badgerslee, Carlos Campos, "ID Debate Gets Heated," Atlanta Journal-Constitution, March 13, 2005. Senator Emmanuel Jones (B) wore shackles to the well of the Senate, and Representative Alisha Thomas Morgan (B) brought shackles to the well of the House to symbolize the bill's potential to repress the black vote. Mike Phillips, "ID Bill Could Make Georgia Unique in Turn Away Voters," Macon Telegraph, March 19, 2005; Carlos Campos, "Firebrand ‘Standing Up’: Legislator Makes No
Senator Emanuel Jones (B), a member of the Senate State and Local Government Committee, attended all meetings regarding the bill, and proposed numerous amendments to retain specific forms of identification because there were no justifiable reasons for their elimination. Senator Jones stated that these amendments were voted down without any debate. Senator Jones stated that the Black Caucus requested postponement of implementation of the ID portions until DDS locations are established in every county. Senator Jones stated that this request was dismissed and that he knows of no plan by the Governor to make such expansions.

Senator Robert Brown (B) stated that proponents never specifically addressed the reasoning behind the elimination of each form of ID or the discrepancies between whites and blacks ownership of driver’s licenses and ID cards. Senator Brown can testify that black voters prefer to vote in person rather than absentee. He noted that he has advocated absentee voting within the black community, particularly to the elderly who have always been authorized to vote absentee, but has found that they still prefer to vote in person on election day. Senator Brown asserted that for these reasons, the extended absentee voting period and the addition of “no excuse” absentee voting will not mitigate the retrogression caused by the proposed ID restrictions.

Secretary of State Cathy Cox (W) opposed HB 244 in an April 8, 2005 letter to Governor Perdue, urging him to veto the law, and submitted a letter opposing preclearance. She provided a list of registered voters who lack birth certificates for whom obtaining a photo ID would be particularly difficult. She can also testify to the absence of any complaints of voter fraud via impersonation during her tenure. Secretary Cox stressed that there are DDS offices in only one-third of the counties, none within the City of Atlanta, and that DDS headquarters is not served by any form of public transportation.

The Mayor of Atlanta, Shirley Franklin (B), opposes preclearance, and can testify to the experience of her mother, who recently moved to Atlanta from Philadelphia, in attempting to obtain a Georgia identification card. Her mother went to several DDS offices before finding one that was open. Her expired Pennsylvania identification was rejected as sufficient documentation to obtain a Georgia ID card, and she was told to produce her original birth certificate. Mayor Franklin’s mother has never had a birth certificate, but is currently attempting to obtain an analogous document from North Carolina, where she was born. Mayor Franklin noted that this process would be much more arduous for someone without resources or supportive family in the area. Mayor Franklin believes that even if the intent of the legislation is not to disenfranchise minority voters, it will “inarguably have that result.”

Apologies for Her Convictions,” Atlanta Journal-Constitution, March 24, 2005. Representative Morgan then refused to leave the well of the House after her time to speak expired, instead singing the civil rights anthem, “Ain’t Gonna Let Nobody Turn Me Around.” Id.
A coalition of voting rights organizations\footnote{The groups include the Voting Rights Project of the Lawyers' Committee for Civil Rights Under Law, National Voting Rights Institute, National Voting Rights Project of the ACLU, MALDEF, Georgia Association of Black Elected Officials, Georgia Association of Latino Elected Officials, AARP Georgia, and others.} provided a letter urging an objection. The coalition states that the photo identification requirements carry a retrogressive racial impact because blacks in Georgia are six times more likely than whites to live below the poverty level, and five times less likely than whites to have access to a motor vehicle than whites. As 103 counties lack a DDS location, these two factors result in disparately less access by blacks than whites to DDS locations. In addition, the limited transportation alternatives for those who lack access to motor vehicles, particularly in rural Georgia, add to the economic burdens related to obtaining an identification card, and remain unchanged even if an indigent citizen qualifies for the free ID. The coalition states that the legislature failed to investigate the racial impact of Act 53, and took no action to mitigate the potential racial impact of the legislation by, for example, providing funds for voter education about the new requirements. Finally, the letter asserts that the stated purpose of the photo identification requirement is pretextual because the purported justification of preventing fraud is undermined by the exemption of absentee ballots from the photo identification requirement.

The NAACP Legal Defense and Educational Fund opposes preclearance of HB 244. In addition to arguments similar to those above, Director-Counsel Theodore Shaw analogizes the identification requirements to "reregistration" and "reidentification" measures that the Department has objected to in the past.

C. Public Source Data

1. Process & Fees to Obtain Driver's Licenses and Identification Cards

The initial submission provided no information regarding DDS locations, hours, fees, or requirements to obtain a photo ID. Our research shows that the Georgia General Assembly created the Department of Driver Services in House Bill 501 (2005) as a successor to the Department of Motor Vehicles. Effective July 1, 2005, Georgia residents can apply for driver's licenses and a state-issued photo identification cards at one of the state's 56 DDS locations, 53 of which are full service centers and 3 part-time sites. The City of Atlanta has not had a DDS location for the past year, although the Governor's August 6, 2005, press release states that negotiations are underway to lease a new site. DDS customer service centers are open to the public Tuesday through Saturday, from 9:00 am to 5:00 pm. Monday hours have been added for select locations for appointment-only road tests. According to the Governor's August 6, 2005, press release, DDS will also begin to issue photo identification cards at certain designated locations on Mondays. According to DDS Commissioner Greg Dozier, the designated sites are all located in the Atlanta area and are as follows: Shannon Mall, North Cobb, Lawrenceville, and Conyers.
According to Commissioner Dozier, five DDS locations are accessible via public transportation: the South DeKalb, Shannon Mall, and Sandy Springs sites in the Atlanta area are accessible via the Metropolitan Atlanta Rapid Transit Authority (MARTA); the Marietta location is accessible by Cobb Community Transit; and the Norcross location is accessible via Gwinnett County Transit.\(^6\) The remaining 51 sites are accessible only by personal transportation or taxi service.

The Governor recently announced the creation of the Georgia Licensing on Wheels ("GLOW") program. Announced on August 6, 2005, the GLOW program will use a mobile licensing bus to travel the state with the capacity to issue up to 200 photo identification cards per day. The state estimates that if the mobile unit is operational four days per week, the program has the capacity to serve 38,400 persons a year. According to Commissioner Dozier, the bus will be staffed by four DDS employees licensed to operate the ID-issuing equipment. Commissioner Dozier has stated that the GLOW tours will initially run weekly from Tuesday through Saturday, and may eventually also run on Mondays. DDS is currently mapping out routes and schedules, dividing the state into corridors which the GLOW program will visit based on the following factors: (1) the geographical need based on lack of DDS locations, (2) the population's need regardless of the presence of a DDS location; (3) requests from citizen groups; (4) geographic accessibility for groups and citizens; and (5) convenient times for groups and citizens. Dozier reported that community groups have already begun contacting DDS to make GLOW tour requests.

No information about the GLOW program is currently posted on the DDS website, though Dozier anticipates posting tour information when the routes are determined. Dozier has identified the first 36 counties to be visited by the GLOW program, starting on August 30, 2005 in Fulton County. The initial schedule and map of counties anticipated to be served by the program is attached at Tab \(^3\). DDS will also conduct a public service campaign, focusing on radio announcements and informational pamphlets issued to organizations by request. Dozier states that DDS plans to continue the program indefinitely.

Individuals may also register to vote through the GLOW program while obtaining an ID card. If an individual wants to register to vote, the DDS employee will click "yes" on the computer, and the registration applications will be batched and transmitted to the SOS every night or when the computers are returned to DDS headquarters. Voter registration applications will be transmitted electronically with no additional forms for applicants to complete.

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\(^6\) Public transportation costs are as follows: Marta round-trip fare is $3.50. Out-of-District Routes, which are routes that travel to Cobb, Clayton, or Gwinnett Counties are an additional $1.50. Seniors citizens, disabled riders and Medicare recipients pay $1.70 round-trip within the district and $2.50 out-of-district. Gwinnett County Transit is $3.50 round-trip ($6 express bus round-trip), $1.70 round-trip for Senior/Youth/Disabled, $7 for paratransit round-trip. Transfers to MARTA trains and buses are free. Cobb Community Transit is $2.50 round-trip for an adult, $1.60 youth round-trip, $1.20 for senior citizens and disabled, and $5 for paratransit round-trip.
According to Commissioner Dozier, 31 DDS customer service centers will offer appointments for those who need an ID for voting purposes beginning in September 2005. Appointments will be reserved for groups, such as senior centers, church groups, and others. It will be the department's intention to schedule individuals and small groups together to ensure that the allocated appointment times are maximized. There will be a minimum of 3,960 slots per month available for appointments, which would provide the opportunity for 47,520 appointments on an annual basis.

According to the DDS website, first-time applicants for a Georgia driver's license, learner's permit, or state identification card must show an acceptable form of identification that indicates the applicant's full name and date of birth. Acceptable items include: original or certified copy of birth certificate issued by an office of vital records; certified copy of birth registration; certified copy of court records (adoption, name change, or sex change); certified naturalization records; immigration ID card; and valid United States passport. Anyone applying for a Georgia driver's license or identification card must provide a Social Security number at the time of issuance. It is not required for an applicant to have his original Social Security card. United States citizens must provide proof of citizenship, in the form of a birth certificate, United States passport, or certificate of citizenship. Non-United States citizens must present proper INS documentation in English or translated into English by an approved translator.

To obtain a certified copy of one's birth certificate in Georgia, a citizen must provide the following information: full name as shown on birth certificate, date of birth, place of birth, current age, sex, full name of mother (including maiden name), and full name of father to the State Vital Records Office. The requester must also provide a photocopy of a valid photo identification card, such as a driver's license, state issued photo ID card, or employer issued photo identification. If a person is requesting a birth certificate in order to obtain a photo ID card, and does not already possess the ID required for the request, he or she may present a signed Social Security card as ID based upon the comparison of the signatures from the card and the application. If the requestor has no ID at all, the State Vital Records Office will mail out the certified copy of the birth certificate under the assumption that it will not be delivered by the post office to a location where a person of that name does not live.

According to the Georgia Division of Public Health's Vital Records website, applicants should allow 10 to 12 weeks to process routine requests for certified copies received by regular mail that do not involve any changes or directions and do not require filing of a new certificate. Requests made by overnight delivery are usually processed within three to five business days of receipt.

Georgia law requires non-refundable pre-payment before a record such as a birth certificate

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2 Some county offices (e.g. Fulton County) will only accept a photo ID and will refer people who lack ID to the State Office in Atlanta. Dunn told us that vital records offices are independently run in each county so we have been unable to ascertain what the practices are in every county within the state.
certificate can be provided. A $10 search fee is required in order to receive one certified copy. Additional certifications of the same record ordered at the same time may be acquired for a $5 fee. A multi-year search requires an additional $10 fee. Records are sent by overnight for an additional fee of $16.81. An additional fee of $9.95 is also charged for credit card payments made through VitalChek. There is no additional charge for payment by certified check or money order. All credit card payments must be made through VitalChek.

Some state residents were born outside of hospitals and were never issued birth certificates. According to the United States Department of Health and Human Services, Centers for Disease Control and Prevention, and the National Center for Health Statistics, over 40 percent of live births in the United States occurred outside of a hospital as late as 1940. Midwifery was not certified in Georgia until the late 1940s. The Lay Midwifery Act of 1955 empowered the Georgia Department of Human Resources (DHR) to set educational requirements and certify lay midwives. As a result, some Georgia citizens were delivered at home before this time and were never issued birth certificates because they were delivered by a certified medical professional. We have been unable to obtain an estimate of the number of persons without birth certificates. According to the 2000 Census, there were 616,935 whites aged 65 and over, and 273,486 whites aged 75 and over, and 154,469 blacks aged 65 and over, and 67,051 aged 75 and over.

Individuals may use expired and suspended driver’s licenses as acceptable photo ID for voting. Licenses can be suspended for criminal misconduct such as failure to pay child support. Suspension of a driver’s license cannot occur for non-payment of parking tickets. The court is responsible for the collection of a driver’s license upon conviction of a crime for which suspension is a punishment. If the court fails to do so, DDS sends the person a letter to collect it. Deputy Attorney General Dunn stated that if the voter has not yet surrendered his license, he could use it as photo ID for voting, even if it is suspended.

Any person old enough to sign his name or make a mark indicating his legal signature can apply for a Georgia photo identification card. A suspended or revoked licence does not prohibit a resident from applying for an identification card. A Georgia ID cardholder is not required to surrender his ID card when a driver’s licence is secured or reinstated. In order to secure a Georgia ID card an applicant must furnish proof of residency in the State of Georgia. The following items showing a valid Georgia address are accepted: utility bill; bank statement; rental contracts and/or receipts; employer verification; or Georgia license issued to parent, guardian, or spouse. The applicant must surrender all previous driver’s licences, identification cards, and permits. A certified Motor Vehicle Report or status letter from a previous state can be used if an applicant had a previous license or ID card, but does not have in his possession a license or identification to surrender.

The cost for an license or identification card is $20 for 5 years or $35 for 10 years. For those eligible, licences can be renewed via the internet, mail, or telephone. According to the

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*The VitalChek Network is a private entity that is not affiliated with the State of Georgia.*
Governor's July 1, 2005, press release, almost 1.4 million citizens have renewed a license by one of these means.

2. **Driver's License/DDS Card Ownership**

Prior to signing HB 244 into law, Governor Perdue estimated that 300,000 Georgians do not have a driver's license or other acceptable photo identification that could be used at the polls, but that 50,000 are incarcerated persons. See Jim Thrapp, Nancy Badertscher, “Voter ID Bill Likely to be Law,” *Atlanta Journal-Constitution*, April 2, 2005. The United States Department of Transportation released data that in 2003, the latest available date, Georgia had 5,757,953 licensed drivers and a driving-age population of 6,632,373. This would constitute 86.8% of the voting age population who had driver's licenses.

The Georgia Department of Driver Services has provided data in response to our request. The DDS data contains counts of persons 18 and over with driver's licences and state ID cards.² According to the DDS database, Georgia currently reports that 6,108,560 voting age persons have unexpired driver's licenses, which include commercial licenses, DUI permits,¹⁰ suspended and revoked licenses. Georgia also reports that 690,538 voting age persons have unexpired ID cards, and 288,883 voting age persons have both a driver's license and ID card. This totals 7,087,981 persons of voting age with a photo ID from DDS. Of this group, 1,260,780 are black (17.7%), 2,687,706 (37.9%) are white, and 2,870,984 (40%) are of “unknown” race. The remaining 268,511 are comprised of Asian/Pacific Islander, Hispanic/Latino, Indian, multi-racial, other, and “refused to state.”

Of the 4,216,997 voting age persons in the database who are of known racial background or refused to state, 29.8% are black and 65.1% are white. Discussion of the reliability of this data is contained in Part II. D, *infra*.

3. **Access to Vehicles**

Data regarding access to vehicles is often used as a reasonable proxy for driver's license ownership, as persons who do not have a vehicle are less likely to have a driver's license. According to the Census Bureau data tabulations (SF-3), a total of 390,414 Georgia voting-age individuals lack access to a vehicle. When examined at the household level, this constitutes 242,929 households without access to a vehicle. The racial breakdown of these households reflects that there are 142,171 black non-Hispanic households without access to a vehicle, and 89,232 white non-Hispanic households without access to a vehicle. This constitutes 17.7 percent

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² Individuals may have both a Georgia driver's licence and a Georgia ID card, or one or the other. For convenience, we sometimes refer to a person who holds either type as having a "DDS card" because for voting purposes, it is access to the card, rather than the type of card, that is significant.

¹⁰ DUI permits are driving permits issued to persons whose regular license are revoked for DUI convictions so they can drive to and from work.
of black households and 4.4 percent of white households.

Ms. Meyers provided a 2004 report conducted by Georgians for Better Transportation containing vehicle access data that are consistent with the census numbers. The report, "Blueprint 2030: Affordable Mobility and Access for All of Atlanta and Georgia," notes that 250,000 households in Georgia lack access to a vehicle, and that 140,000 of those are headed by an African-American household. Id. at 22. It also finds that nine counties contain half of the vehicle-less households in the state: Fulton, DeKalb, Chatham, Richmond, Cobb, Muskogee, Gwinnett, Bibb, and Dougherty, and that each of these nine counties have more than 5,000 households with no vehicle. Id. at 23. The report also finds that six of these nine counties would be on the list of counties with more than 5,000 African-American households without vehicles. Id.

Table 1: No vehicle households in counties with more than 5,000 total population

<table>
<thead>
<tr>
<th></th>
<th>All households with no vehicle</th>
<th>Households with no vehicle headed by African-Americans</th>
<th>Percentage of households with no vehicle headed by African-American</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fulton</td>
<td>48,859</td>
<td>36,221</td>
<td>74.1%</td>
</tr>
<tr>
<td>DeKalb</td>
<td>22,763</td>
<td>14,458</td>
<td>63.5%</td>
</tr>
<tr>
<td>Chatham</td>
<td>10,678</td>
<td>7,309</td>
<td>68.4%</td>
</tr>
<tr>
<td>Richmond</td>
<td>8,969</td>
<td>6,207</td>
<td>69.2%</td>
</tr>
<tr>
<td>Cobb</td>
<td>8,675</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Muskogee</td>
<td>8,154</td>
<td>5,715</td>
<td>70%</td>
</tr>
<tr>
<td>Gwinnett</td>
<td>6,294</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Bibb</td>
<td>7,423</td>
<td>5,541</td>
<td>74.6%</td>
</tr>
<tr>
<td>Dougherty</td>
<td>4,597</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

The report further notes that Georgia does not have large disparities in shares of households without vehicles between urban and rural areas. Id. at 24. It states that across Georgia, levels of African-American households without vehicles are higher in the smaller urbanized areas of the state in than Atlanta, often at levels of 20 percent, yielding on overall statewide rate of 18 percent in no vehicles available for African-American households. Ibid. In contrast, the statewide rate for white households with no vehicles available is 4.41 percent.