

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

06 JAN 12 PM 1:00

CLERK ALBUQUERQUE

THE AMERICAN CIVIL LIBERTIES
UNION OF NEW MEXICO; THE
LEAGUE OF WOMEN VOTERS OF ALBUQUERQUE/
BERNALILLO COUNTY, INC.; SAGE COUNCIL;
NEW MEXICO COALITION TO END HOMELESSNESS;
ANNE KASS, ALEXANDRA KAZARAS
and BARBARA GROTHUS,

Plaintiffs,

v.

No. CV 05-1136 MCA/WDS

MILLIE U. SANTILLANES, ALBUQUERQUE
CITY CLERK,

Defendant.

NOTICE OF FILING OF ATTACHMENT TO FIRST AMENDED COMPLAINT

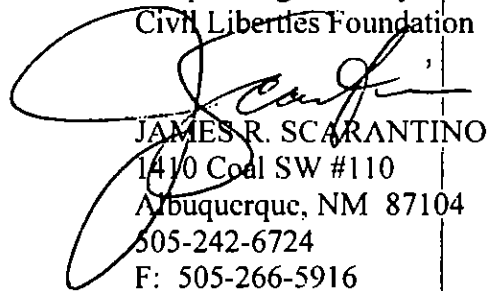
Please take notice that Plaintiffs herewith file the attachment to the First Amended Complaint, which was inadvertently not attached to the original and copy filed with the Clerk of Court.

Respectfully submitted,

JOSEPH P. KENNEDY
SHANNON L. OLIVER
KENNEDY & OLIVER, P.A.
1000 Second St. NW
Albuquerque, NM 87104-1138
505-244-1400
F: 505-244-1406
kolawjpk@qwest.net
Cooperating Attorneys for the NM
Civil Liberties Foundation

GEORGE BACH
Staff Attorney
ACLU of New Mexico
P.O. Box 566
Albuquerque, NM 87103-5916
505-243-0046
F: 505-266-5916
gbach@ACLU-NM.org

SCOTT CAMERON
P.O. Box 37351
Albuquerque, NM 87176
505-331-0252
F: 505-266-5916
pclscott@juno.com
Cooperating Attorney for the NM
Civil Liberties Foundation



JAMES R. SCARANTINO
1410 Coal SW #110
Albuquerque, NM 87104
505-242-6724
F: 505-266-5916
jrscarantino@yahoo.com
Cooperating Attorney for the NM
Civil Liberties Foundation

COUNSEL FOR PLAINTIFFS

I hereby certify that I served a true
and correct copy of the foregoing by
U.S. mail upon Defendant Millie U.
Santillanes, this 12th day of January, 2006.

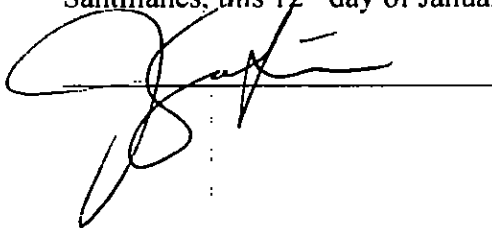


EXHIBIT A
ALBUQUERQUE VOTER I.D. AMENDMENT

CITY of ALBUQUERQUE

SIXTEENTH COUNCIL

COUNCIL BILL NO. R-05-295

ENACTMENT NO. R-2005-099

SPONSORED BY: Sally Mayer

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RESOLUTION

ADOPTING A PROPOSITION TO BE SUBMITTED TO THE VOTERS AT THE NEXT MUNICIPAL ELECTION CONCERNING A PHOTO VOTER IDENTIFICATION REQUIREMENT FOR ALBUQUERQUE MUNICIPAL ELECTIONS, PROVIDING FOR ISSUANCE OF VOTER PHOTO IDENTIFICATION CARDS, PROVIDING FOR PROVISIONAL BALLOTS AND DESIGNATING THE TIME FOR CERTIFICATION OF ELECTION RESULTS.

WHEREAS, the integrity of the voting process is essential for the public to have confidence in the election process; and

WHEREAS, present law has no general requirement for presenting a photo identification when voting so as to prevent voting fraud; and

WHEREAS, Louisiana, South Carolina, South Dakota, Florida, Indiana and Hawaii currently require voters to provide photo identification before he or she may vote; and

WHEREAS, the use of photo voter identification will help to eliminate the fraudulent voter registration that exists in Albuquerque and prevent vote from becoming fraudulent as shown by these 2004 examples:

1. A community organization admitted that one of its employees submitted falsified voter registrations forms for a 13-year-old boy and a 15-year-old neighbor;

2. A voter registration card arrived in the name of a resident's father who had been dead for two and one-half years;

3. The Albuquerque Police Department's Gang Unit, while executing a search warrant, found voter registration forms. The occupant admitted to being paid to have people fill out these forms;

[+ Bracketed/Underscored Material +] - New
[- Bracketed/Strikethrough Material -] - Deletion

1 4. Voter Registration cards were turned in to the County Clerk
2 containing faulty or no addresses, no social security numbers and bogus
3 signatures. The Bernalillo County Clerk estimated that the County had 3,000
4 voter registration cards with problems that may have rendered them invalid;
5 and

6 WHEREAS, requiring all voters to show photo identification eliminates the
7 possibility of having a person's vote stolen by an impostor, as was the case
8 with at least one Albuquerque citizen in the 2004 election; and

9 WHEREAS, voting is one of our most important rights and no one should
10 lose that right through the fraudulent behavior of another.

11 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
12 ALBUQUERQUE:

13 Section 1. The City Clerk is instructed to place the following proposal on
14 the next municipal election ballot, October 4, 2005, and the qualified voters of
15 the City of Albuquerque shall be permitted to vote "for" or "against" the
16 following proposal:

17 PROPOSITION

18 Amending the Election Code of the Albuquerque City Charter creating a new
19 Section to provide the following: When a voter approaches the election
20 polling place seeking to vote, the voter must identify himself or herself audibly
21 by name. The Municipal Election Clerk shall locate in the election rolls the
22 name spoken and ask the individual seeking to vote for one current valid
23 identification card containing the voter's name and photograph. Such photo
24 identification card may include any card issued by a government agency,
25 driver's license, student identification card, commercial transaction card such
26 as a credit or debit card, insurance card, union card, a professional
27 association card or the voter identification card issued by the City Clerk. If the
28 individual is unable to provide a photo identification card, he or she shall be
29 allowed to vote on a provisional ballot, but only if he or she swears or affirms
30 under penalty of perjury in an affidavit provided by the City Clerk that he or
31 she is the registered voter listed on the voter registration rolls at the precinct
32 at which he or she presented himself or herself to vote and provides his or her
33 date of birth and the last four digits of his or her social security number.

[+ Bracketed/Underscored Material +] - New
[- Bracketed/Strikethrough Material -] - Deletion

[+ Bracketed/Underscored Material +] - New
[- Bracketed/Strikethrough Material -] - Deletion

1 Provisional ballots shall be issued for no other reason than the failure to
2 present photo identification. Provisional ballots shall be counted only by the
3 Municipal Canvassing Board and only upon the voter's presentation to the
4 City Clerk within the ten day canvassing period one of the photo identification
5 cards described in this section. The Municipal Canvassing Board shall also
6 verify that the voter who cast the provisional ballot was registered to vote for
7 the election and did not vote elsewhere in the same election. If a voter who
8 cast a provisional ballot under this section swears or affirms under penalty of
9 perjury in an affidavit provided by the City Clerk within the ten day canvassing
10 period that he or she has a religious objection to being photographed, such
11 voter shall not be required to submit photo identification. The Municipal
12 Canvassing Board shall otherwise verify that the provisional ballot was valid.
13 The City Clerk shall develop and provide instructions for elections judges
14 concerning the requirements of this Section and a method of complaint and
15 resolution for individuals who feel they have been discriminated against by
16 election officials' or the City Clerk's administration of this Section, in
17 accordance with federal intimidation guidelines. Knowingly executing a false
18 statement constitutes perjury as provided in Section 30-25-1 NMSA 1978 and
19 voting on the basis of a falsely executed statement constitutes false voting as
20 provided in Section 1-20-8 NMSA 1978. Voter photo identification cards shall
21 be issued by the City Clerk without charge to any voter who presents any two
22 of the following identification documents that show the name and address of
23 the voter: a state issued identification card, social security card, student
24 identification card, library card, insurance card, selective service card, union
25 card, professional association card, utility bill, bank statement, government
26 check or a paycheck. If the individual is unable to present any two of these
27 documents to the City Clerk, then the voter shall swear or affirm in writing
28 under penalty of perjury that he or she is the registered voter and shall be
29 issued a voter photo identification card upon confirmation with the County
30 Clerk that such person is presently registered to vote. The City Clerk issued
31 voter photo identification card shall state on its face that it shall not be valid
32 for identification other than for the purpose of voting in City Elections and
33 shall not be valid if the voter is subsequently purged from the voter rolls.

1 The Municipal Canvassing Board shall certify the results of the Municipal
2 Election by the end of the tenth day after the day on which the election is held.
3 Pursuant to Article II, Section 2 (b) of the City Charter, this Section shall take
4 precedence over the State Municipal Election Code. The provisions of this
5 Section shall apply only to City of Albuquerque Municipal Elections.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

X:\SHARE\Legislation\Sixteen\R-295fn.doc

[+ Bracketed/Underscored Material +] - New
[- Bracketed/Strikethrough Material -] - Deletion

1 PASSED AND ADOPTED THIS 20th DAY OF June 2005

2 BY A VOTE OF: 5 FOR 2 AGAINST.

3

4

Yes: 5

5

No: Griego, Heinrich

6

Excused: Gomez, O'Malley

7

8

9

10

Brad Winter

11

Brad Winter, President

12

City Council

13

14

15

16

APPROVED THIS 23rd DAY OF June, 2005

17

18

19

Bill No. R-05-295

20

21

Jana B. Lewis for Martin J. Chavez

22

Martin J. Chavez, Mayor

23

City of Albuquerque

24

25

26

27

ATTEST:

28

29

Judy L. Chavez

30

City Clerk

31

32

33

[+ Bracketed/Underscored Material +] - New
[- Bracketed/Strikethrough Material -] - Deletion