EXHIBIT

8
House Chambers Floor Debate, 2nd March 21, 2011

2011 (82R) SB 14

3.21.11 HOUSE CHAMBERS FLOOR DEBATE

2ND READING

MARCH 21, 2011

Transcribed by Rhonda Howard, CSR
April 23, 2012
THE CLERK: SB-14 by Fraser relating to requirements to vote including presenting proof of identification, providing criminal penalties.

THE SPEAKER: Chair recognizes Representative Harless.

REPRESENTATIVE HARLESS: Thank you, Mr. Speaker, Members.

The requirement of photo I.D. is becoming all but necessary in the modern age. Photo I.D.s are required to drive a car, buy alcohol or cigarettes, to obtain a hunting or fishing license, to open a bank account, to purchase medical prescriptions, to obtain most health or dental care and to rent a hotel room or a car.

The Appellant Court [sic] in the Indiana photo voter I.D. case, Crawford versus Marion County, stated, "It is exceedingly difficult to maneuver in today's America without a photo I.D. And, as a consequence, the vast majority of adults have such I.D. Ballot access should have at least the same integrity as renting a movie, boarding a commercial plane or cashing a check."

The fact that states across the nation are passing voter I.D. laws is proof enough that the public's concern regarding the potential of voter
fraud. While there is, and perhaps will always be, a disagreement regarding the extent of the voter fraud, the lack of public confidence in our voting system cannot be questioned.

People who lack confidence in the election system see no reason to show up and vote. There is potential for fraud in registration, in-person voting and counting the ballots.

SB-14 is a simple, narrowly-crafted piece of legislation that only addresses one type of potential fraud, in-person voting.

SB-14 is similar to Georgia's photo I.D., which was approved by the Department of Justice, and Indiana's photo I.D., which was upheld by the Supreme Court.

In upholding Indiana's photo I.D. law the Supreme Court stated, "Confidence in the integrity of our election process is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic process and breeds distrust of our government. Voters who fear their legitimate votes will be outweighed by fraudulent ones will feel disenfranchised."

This bill is in compliance with the U.S.
Supreme Court decision which upheld the Indiana voter I.D. legislation, because it deters and detects fraud. It protects the public's confidence in elections. It counts only eligible voters' votes.

It also complies with the Supreme Court decision, because it offsets the proof on voters by providing free access to free photo I.D. cards, allowing for provisional ballots and absentee ballots, ensuring that obtaining a photo I.D. is no more burdensome or inconvenient than the usual act of voting, and provides exceptions for elderly, disabled or indigent voters.

SB-14 would require you -- a voter to show a photo I.D. when voting in person. The acceptable I.D.s include cards issued by the DPS, driver's license or I.D. card, a military pass -- I.D., a passport or a concealed handgun license. These forms of I.D. must be current or no more than 60 days expired. A current citizen's certificate with a photo is also an acceptable form of identification.

Voters who cannot produce an acceptable form of photo I.D. will be allowed to cast a provisional ballot. That ballot will be counted if
the voter returns within six days with the photo I.D.

There are exceptions to the photo I.D. legislation, which include people who are 70 years old or older as of January 1st, 2012. They may continue to vote with their voter registration card.

Indigent people and people with religious objections to be photographed may cast a provisional ballot on election day and return to the registrar within six days with a signed affidavit confirming their exempt status.

And voters who are disabled and provide written documentation from the Social Security Administration or the Veterans Affair Department verifying their [sic] are -- they are receiving benefits due to the disability and the voter does not have one of the other acceptable forms of I.D. for voting.

SB-14 would provide statewide extensive training and notification of the changes in requiring a photo I.D. to vote. It would provide for free DPS-issued I.D.s to registered voters who request an I.D. who do not have another acceptable form of identification, photo identification for voting. It allows a voter to cast a ballot if the
name on the I.D. is substantially similar to the
name on the voter's list.

In conclusion, in two states with strict
photo I.D. requirements, voter turnout has increased
since the photo I.D. laws were enacted. This tells
me that photo voter I.D. requirements increase the
public's confidence in the election process, which
has been shown in these states to increase voter
participation.

Although way -- we may disagree on how
much voter fraud takes place, just one fraudulent
vote effectively steals one legitimate vote.
Elections are too important to leave this
unprotected.

This legislation is not a radical concept.
It is just asking that every voter verify you are
who you say you are before casting a vote.

THE SPEAKER: Mr. Anchia, for what
purpose?

REPRESENTATIVE ANCHIA: Will the
gentle lady yield, please?

THE SPEAKER: Will the lady yield?

REPRESENTATIVE HARLESS: I will.

REPRESENTATIVE ANCHIA:

Representative Harless --
REPRESENTATIVE HARLESS: Hi.

REPRESENTATIVE ANCHIA: -- good afternoon. I wanted to ask you a couple questions about Senate Bill 14 and voter impersonation.

You alluded to the fact that -- that this bill deals with one specific type of voter fraud. Correct?

REPRESENTATIVE HARLESS: Yes, potential voter fraud.

REPRESENTATIVE ANCHIA: And that's -- and that's -- that's voter impersonation?

REPRESENTATIVE HARLESS: Yes.

UNIDENTIFIED REPRESENTATIVE: And how does -- describe how voter impersonation works.

REPRESENTATIVE HARLESS: Someone shows up to the poll with a voter's registration card that may not be theirs and casts a vote -- a vote with that card.

REPRESENTATIVE ANCHIA: How -- how often does that happen in the State of Texas, do you think?

REPRESENTATIVE HARLESS: I'm not advised.

REPRESENTATIVE ANCHIA: Do -- do you have a guess? You -- you've gone back and looked at
interim reports and studies on this issue.

REPRESENTATIVE HARLESS: Under our current law there's not really tools necessary to stop this type of in-voter fraud. In fact, most of this in-voter fraud we may not even know about until after the election occurs.

We have heard from many witnesses over the last couple sessions who have testified that voter impersonation in which people's I.D.s or voter registration card have been used and false votes cast in that person's name is not uncommon.

REPRESENTATIVE ANCHIA: And did -- did they provide any documented cases, or was it anecdotal?

REPRESENTATIVE HARLESS: It -- there -- there was information from the Secretary of State, but really we don't have the tools to effectively deter or detect this type of voter fraud.

REPRESENTATIVE ANCHIA: I find it interesting that you say we don't have the tools in current law.

Are you pretty familiar with the Election Code?

REPRESENTATIVE HARLESS: A little.
I've learned more about it the last few months.  

REPRESENTATIVE ANCHIA: Me, too. Me, too.

What is the penalty for voter impersonation?

REPRESENTATIVE HARLESS: As addressed in this bill?

REPRESENTATIVE ANCHIA: No, no.

Current law.

REPRESENTATIVE HARLESS: I think --  
REPRESENTATIVE ANCHIA: It's under Section 6401 -- spot 012 of the Election Code.

REPRESENTATIVE HARLESS: And it would be a second-degree felony if they're caught.

REPRESENTATIVE ANCHIA: Okay. So current -- under current law, just to be clear so the membership knows, it's actually a third-degree felony, so it's two to ten years in prison and up to $10,000 worth of fine.

And in the Committee substitute that we have before us, it's actually bumped up to a third-degree felony. So there's a -- a penalty enhancement from third-degree to second-degree, so it increases in severity. And then there's also an increase -- a correlating increase with the
attempted voter impersonation that gets bumped up, as well, from its current law -- for its -- from its current penalty to 180 days -- it's a state jail felony, 180 days to two years in state jail and an optional fine of $10,000.

So there are some pretty severe penalties both in current law and in your proposed bill. Correct? A felony.

REPRESENTATIVE HARLESS: Yes.

REPRESENTATIVE ANCHIA: And in terms of -- of risk/reward, how many -- how many votes can you change with one case of voter impersonation, just --

REPRESENTATIVE HARLESS: How many votes can you change?

REPRESENTATIVE ANCHIA: Yeah.

See, you were very concerned about a -- a legitimate voter being disenfranchised by someone conducting voter impersonation. Is -- is -- is it -- is it a scalable model, or when you commit an act of voter impersonation how many votes do you change?

REPRESENTATIVE HARLESS: Representative Anchia, this is about restoring confidence in the election process --
REPRESENTATIVE ANCHIA: No. I understand that.

REPRESENTATIVE HARLESS: -- one person, one vote. And to get off on the fraud argument and how often it happens or if it even happens, we will never agree on that.

REPRESENTATIVE ANCHIA: Well, I --

REPRESENTATIVE HARLESS: The purpose of this legislation is that when you show up to vote, you prove who you say you are. It's a very simple, narrow-defined bill. And we can stay here all day long discussing the fraud, but that is not what this bill is about. This bill is about protecting, deterring and detecting possible fraud in elections.

REPRESENTATIVE ANCHIA: Sure. I'm -- I'm trying -- I'm trying to get at that, because you talked about voter -- voter impersonation in your layout. And I know -- I know the narrative changes, because when -- when -- you know, we've studied this thing for eight years now -- almost six years -- seven years, actually, and we haven't been able to find widespread voter impersonation.

Clearly to support the bill your narrative
has to change, so now it's about the integrity of elections. I understand that.

But when -- in going through the current -- you -- you said in your layout the -- we currently don't have tools to prevent this. So I was trying to get at the tools that are in current state law.

And the first one is sort of the deterrent effect of risking a state jail felony, two to ten years in jail, $10,000 worth of -- of fines to change, what, one vote. Right? So we're talking about deterrent effect and risk. And my question to you was is it scalable?

I mean, when you commit an act of voter impersonation, how many votes do you change?

REPRESENTATIVE HARLESS: I think it's possibly scalable. If you look at the Representative Donna Howard's election and Dan Neil, I think the decision was decided by, what, two votes.

REPRESENTATIVE ANCHIA: Was there -- were there any occasions of voter impersonation there?

REPRESENTATIVE HARLESS: I didn't follow it that closely --
REPRESENTATIVE ANCHIA: I believe that there aren't.

REPRESENTATIVE HARLESS: -- but when elections are won or lost on two votes we need to put every check and balance we can to restore the public's confidence. And not only does it restore the public's confidence in the election, there's been documented evidence in the two states that have passed this more restrictive photo I.D. that voter turnout increases. When people have confidence --

REPRESENTATIVE ANCHIA: Can --

REPRESENTATIVE HARLESS: -- they are more apt to show up and vote.

REPRESENTATIVE ANCHIA: And those talking points are terrific. Let -- let's try to stay on voter impersonation. Right?

So you said you're not sure of -- of how -- how often it occurs. You believe the tools aren't in place. You acknowledge there's a pretty significant penalty for doing it. Correct? A state jail felony --

REPRESENTATIVE HARLESS: As should be.

REPRESENTATIVE ANCHIA: -- is -- is that -- yeah. As it should be, correct. So there's
a pretty significant penalty for doing it.

Now, let's talk about voter impersonation at the polling location. Who's typically at the polling location?

REPRESENTATIVE HARLESS: As far as administrators --

REPRESENTATIVE ANCHIA: Yeah, yeah.

REPRESENTATIVE HARLESS: -- or people showing up to vote?

REPRESENTATIVE ANCHIA: Yeah. Under the Election Code, who do you -- who -- who's entitled to be at the -- at the polling location?

REPRESENTATIVE HARLESS: There -- the election judge, election clerks, election officers.

REPRESENTATIVE ANCHIA: And -- and it's your -- it's your -- it's your assertion today that those people are powerless to stop voter impersonation. Correct?

REPRESENTATIVE HARLESS: Powerless is not the word I would use.

REPRESENTATIVE ANCHIA: You said helpless earlier. Is that -- is that a better word? They don't have the tools?

REPRESENTATIVE HARLESS: They need some tools.
REPRESENTATIVE ANCHIA: Okay. Well, are you familiar with Section 32 spot 075 of the Election Code?

REPRESENTATIVE HARLESS: I am not.

REPRESENTATIVE ANCHIA: Section 32.075 of the Election Code discusses the law enforcement duties and powers of the presiding judge, of an election judge. Do you know what they are?

REPRESENTATIVE HARLESS: No.

REPRESENTATIVE ANCHIA: Okay.

REPRESENTATIVE HARLESS: But I know you're going to tell me.

REPRESENTATIVE ANCHIA: Yeah, I -- I will, because I -- I just want to clear up the fact that you're concerned there are no tools.

Well, I'll -- I'll read from that portion of the Election Code. "The presiding judge at a -- at a polling location can prevent violations of the Election Code at the polling place. And in performing those duties, the presiding judge has the power of a State District Judge, including -- including the power to issue an arrest warrant."

Were you aware of that?

REPRESENTATIVE HARLESS: No.
REPRESENTATIVE ANCHIA: Do you think -- do you think issuing an arrest warrant to stop some of this purported voter impersonation is a powerful tool?

REPRESENTATIVE HARLESS: I think that the testimony that we’re heard and the articles that have been reported on over the last few years, there have been a number of election officers and election judges that said there were people that came in to vote, they had a voter registration, they returned and voted again with a different voter registration, and they felt they didn’t have the tools necessary --

REPRESENTATIVE ANCHIA: And -- and none of those cases were documented. Right? None of them.

REPRESENTATIVE HARLESS: They were reported on.

REPRESENTATIVE ANCHIA: They -- they were reported, maybe complaints --

REPRESENTATIVE HARLESS: Yes.

REPRESENTATIVE ANCHIA: -- possibly investigated by the Attorney General, but none of them ever documented or -- or conclusively prosecuted. Correct?