



2005 - 124

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

TROY KING
ATTORNEY GENERAL

May 6, 2005

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

Honorable Nell Hunter
Chairperson, Board of Registrars
Suite A-410
716 Richard Arrington Jr. Boulevard North
Birmingham, Alabama 35203

Registrars, Board of – Voter Registration
List – Public Records – Voter Registration
– Voter Identification – Jefferson County

The board of registrars may provide only the names and precincts of registered voters to persons or entities, unless the entity requesting the information is a political party. This limitation on access to voter information does not apply to public officials who need more information to effectively carry out their duties.

Political parties are not authorized to obtain the social security numbers of registered voters that are in the possession of the boards of registrars or probate judges.

To the extent this opinion conflicts with A.G. No. 91-00252, that opinion is overruled.

A person who is seventeen years of age on the date that registration closes, but who will turn eighteen years of age on or before election day, must be permitted to register to vote.

A voter identification card is an acceptable form of identification for purposes of

section 17-11A-1 of the Code of Alabama only if both the name and address of the voter are listed on the card. If the address portion has been detached, the voter identification card is no longer an acceptable form of identification.

A voter identification card is an acceptable form of identification for purposes of section 17-11A-1 only if it is the most recent voter identification card issued to that voter.

To qualify as an acceptable form of voter identification, the address listed on the voter identification card must match the address of the voter as shown on the list of registered voters at the polling place. If the address does not match, the voter may either present another form of acceptable identification or cast a provisional ballot in accordance with section 17-10A-2 of the Code of Alabama.

Dear Ms. Hunter:

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

QUESTION

1. What information from the county's voter registration list is the board of registrars authorized to disseminate to persons or entities other than political parties?

FACTS AND ANALYSIS

Section 17-4-122 of the Code of Alabama restricts the voter registration information that the board of registrars is allowed to disseminate:

The applications of persons applying for registration shall not become public records as public records are defined under the laws of the State of Alabama, nor shall the board or its deputies disclose the information contained in such applications and written answers, except with the written consent of the person who filed the answer or pursuant to the order of a court of competent jurisdiction in a proper proceeding. Provided, however, that political parties as defined in Section 17-16-2, shall be authorized to obtain all voter registration information in the possession of boards of registrars or probate judges concerning registered voters in their jurisdictions. . . .

ALA. CODE § 17-4-122 (1995) (emphasis added). This section provides that voter registration applications are not public records and that the board of registrars may not disseminate information contained in the application to persons or entities other than political parties. *Id.* This Office has stated that the names and precincts of registered voters may be made available to the public. Opinion to Honorable Faye H. Cowling, Baldwin County Board of Registrars, dated March 3, 1986, A.G. No. 86-00169; opinion to Honorable Bobby Day, Probate Judge, Morgan County, dated June 12, 1980, A.G. No. 80-00419. In addition, this Office has stated that this limitation on access of voter information to the public does not apply to public officials who need more information to effectively carry out their duties. *Id.*

Accordingly, the board of registrars may only provide the names and precincts of registered voters to persons or entities, unless the entity requesting the information is a political party. This limitation on access to voter information does not apply to public officials who need more information to effectively carry out their duties.

CONCLUSION

The board of registrars may only provide the names and precincts of registered voters to persons or entities, unless the entity requesting the information is a political party. This limitation on access to voter information does not apply to public officials who need more information in order to effectively carry out their duties.

QUESTION

2. Has any change in state or federal law affected the decision reached in Attorney General's Opinion 91-00252, which states that political parties are authorized to obtain the social security numbers of registered voters?

FACTS AND ANALYSIS

Section 17-4-122 of the Code provides that "political parties as defined in Section 17-16-2, shall be authorized to obtain *all voter registration information* in the possession of boards of registrars or probate judges concerning registered voters in their jurisdictions." ALA. CODE § 17-4-122 (1995) (emphasis added). In 1991, this Office opined that section 17-4-122 authorized political parties "to obtain all voter registration information in the possession of boards of registrars or probate judges, *including social security numbers.*" Opinion to Wallace Wyatt, Jr., Probate Judge, St. Clair County, dated May 22, 1991, A.G. No. 91-00252. This Office further opined that "[n]either state nor federal law prohibits the release of a social security number which is in the possession of the board of registrars or probate judge." *Id.* In your request, you seek a determination as to whether any change in federal or state law alters the conclusion reached in that opinion.

Until the Alabama Legislature passed Act 85-929, section 17-4-122 prohibited the board of registrars from disseminating **any** of the information on the voter registration applications. 1978 Ala. Acts No. 78-584, 667. Act 85-929, though, amended section 17-4-122 to create an exception for political parties. 1985 Ala. Acts No. 85-929, 228.

The fundamental rule of construction is to ascertain and give effect to the intent of the Legislature in enacting the statute. *Ex parte Ala. Dep't of Mental Health and Mental Retardation*, 840 So. 2d 863, 867 (Ala. 2002); *Gholston v. State*, 620 So. 2d 719, 721 (Ala. 1993). 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. *Bama Budweiser v. Anheuser-Busch*, 611 So. 2d 238, 248 (Ala. 1992); *Tuscaloosa County Comm'n v. Deputy Sheriffs' Ass'n of Tuscaloosa County*, 589 So. 2d 687, 689 (Ala. 1991); *Shelton v. Wright*, 439 So. 2d 55, 57 (Ala. 1983). In interpreting statutory language, a court does not look to one word or one provision in isolation, but instead looks to a whole

statutory scheme for clarification and contextual reference. *U. S. v. McLemore*, 28 F. 3d 1160 (11th Cir. 1994); *Siegelman v. Ala. Ass'n of School Boards*, 819 So. 2d 568, 582 (Ala. 2001); *Wal-Mart Stores, Inc. v. Patterson*, 816 So. 2d 1, 6 (Ala. 2001). Where more than one Code section is involved, each should be construed in harmony with the other Code sections in effect, so far as is practical. *Kinard v. Jordan*, 646 So. 2d 1380, 1383 (Ala. 1994). In cases of conflicting statutes on the same subject, the latest expression of the legislature is the law. *Baldwin County v. Jenkins*, 494 So. 2d 584, 587 (Ala. 1986).

Section 17-4-122 describes the information that a voter registration form should require. ALA. CODE § 17-4-122 (1995). This section does not mention social security numbers and does not provide a requirement that a voter supply a social security number. Instead, 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.” *Id.* Also, the applicant shall not be required to answer any question “not related to his qualifications to register.” *Id.*

Social security numbers are not related to a potential voter’s “qualification to register.” To be qualified to register, a voter must be 18 years of age and a citizen of the United States and live in that precinct. ALA. CONST. art. VIII, § 177 (amend. 579). A social security number does not aid the board of registrar’s in determining whether a potential voter meets these qualifications.

In addition, the Code of Alabama does not contain any provisions requiring a voter to supply a social security number to be able to vote. The only instruction a voter receives regarding a social security number comes from the voter registration form. At the time Opinion 91-00252 was issued, Alabama’s voter registration form provided a blank for the voter to fill in his or her social security number, even though a social security number was not statutorily required. This form did not instruct the voter as to whether providing a social security number was mandatory for voter registration. The current registration forms, however, clarify that a voter is not required to supply a social security number to register to voter. On October 22, 1999, the Alabama Supreme Court approved the two current voter registration forms -- the “State of Alabama Postcard Registration Form” and the “State of Alabama Agency-Based Registration Form.” Both of these forms state that “Social Security Number is requested, **but not required**, by authority of § 17-4-122, Code of Alabama, 1975, for record-keeping purposes.” *Id.* (emphasis added).

The Legislature cannot have intended for political parties to be given the social security numbers of voters. Political parties do not have a legitimate

need for access to voters' social security numbers because political parties can accurately identify each voter utilizing the other voter information obtained from the board of registrars and probate judges. Moreover, because social security numbers are not required, political parties would have an incomplete list if the parties attempted to identify each voter by that voter's social security number.

Also, the Legislature enacted two other processes for obtaining voter information that are more recent than the process found in section 17-4-122, which was last amended in 1985. In 1994, the Legislature passed Act 94-826, codified in section 17-4-252, which requires that the Secretary of State must provide, to anyone who requests, access to the lists and voter history information contained on the central computer. ALA. CODE § 17-4-252 (Supp. 2004). This provision, however, expressly prohibits the Secretary of State from releasing social security numbers. *Id.* In 1989, the Legislature passed Act 89-649, codified in section 17-4-211 and later amended by Act 2003-313, which requires that the Supervisor of Voter Registration must provide, to political parties, candidates, and certain nonprofit organizations that request, "voter registration lists *limited to the names, addresses, and political subdivisions or voting places.*" ALA. CODE § 17-4-211(10) (Supp. 2004) (emphasis added). Thus, political parties are not able to obtain social security numbers through the process provided in section 17-4-211. Both of these processes for obtaining voter information are more recent pronouncements of the Legislature than the process found in section 17-4-122, and they are further evidence of the Legislature's intent to restrict access to social security numbers.

Accordingly, it is the opinion of this Office that political parties are not authorized to obtain the social security numbers of registered voters that are in the possession of the boards of registrars or probate judges.

To the extent this opinion conflicts with A.G. No. 91-00252, that opinion is overruled.

CONCLUSION

Political parties are not authorized to obtain the social security numbers of registered voters that are in the possession of the boards of registrars or probate judges.

To the extent this opinion conflicts with A.G. No. 91-00252, that opinion is overruled.

QUESTION

3. May a person who is seventeen years of age as of the last day to register to vote for an election, but who will turn eighteen on or before election day, register to vote for said election?

FACTS AND ANALYSIS

The qualifications of electors are set forth in section 177 of article VIII of the Recompiled Constitution of Alabama, as amended, which states as follows:

Every citizen of the United States *who has attained the age of eighteen years* and has resided in this state and in a county thereof for the time provided by law, if registered as provided by law, shall have the right to vote in the county of his or her residence. The Legislature may prescribe reasonable and nondiscriminatory requirements as prerequisites to registration for voting. The Legislature shall, by statute, prescribe a procedure by which eligible citizens can register to vote.

ALA. CONST. art. VIII, § 177 (amend. 579) (emphasis added). Further, section 17-4-120 of the Code of Alabama provides that the boards of registrars “shall not register any person as a qualified elector within 10 days prior to any election . . .” ALA. CODE § 17-4-120(a) (1995).

This Office has previously stated that persons who are seventeen years of age on the date that registration closes, but who will turn eighteen years of age on or before election day, must be permitted to register. Opinion to Thomas A. Jernigan, Chairman, Board of Registrars, dated August 8, 1975, 160 Op. Att’y Gen. 59; Opinion to Reed Proctor, City Council, dated March 8, 1972, 146 Op. Att’y Gen. 22. The Constitution of Alabama does not require a citizen to be eighteen years of age before the registration cutoff. Instead, the Constitution provides that “[e]very citizen of the United States who has attained the age of eighteen years . . . *shall have the right to vote . . .*” ALA. CONST. art. VIII, § 177 (amend. 579) (emphasis added). To avoid depriving someone of his or her constitutional right to vote, a person who is seventeen years of age on the date

that registration closes, but who will turn eighteen years of age on or before election day, must be permitted to register to vote.

CONCLUSION

A person who is seventeen years of age on the date that registration closes, but who will turn eighteen years of age on or before election day, must be permitted to register to vote.

QUESTIONS

4. If the portion of the voter identification card that contains the name of the voter has been separated or detached from the portion that contains the address of the voter, does the voter identification card constitute an acceptable form of voter identification?

5. To constitute an acceptable form of voter identification, must the voter identification card, which includes the name and address of the voter, be issued during the same election cycle in which the registered voter is presenting himself or herself to vote?

6. To constitute an acceptable form of voter identification, must the address of the voter as shown on the voter identification card match the address of the voter as shown on the list of registered voters at the polling place?

7. If the answer to Question 5 is in the affirmative, what time period is referenced in the phrase "election cycle"?

FACTS AND ANALYSIS

Act 2003-381, codified in section 17-11A-1 of the Code of Alabama, is referred to as the Voter Identification Law. Section 17-11A-1 provides, in 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.*

ALA. CODE § 17-11A-1(b) (Supp. 2004) (emphasis added).

This section provides that an acceptable government document must show the “name *and address* of the voter.” *Id.* (emphasis added). 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 17-11A-1 of the Code of Alabama.” Opinion to Honorable Don Davis, Mobile County Probate Judge, dated April 22, 2004, A.G. No. 2004-125 (emphasis added). Accordingly, a voter identification card is an acceptable form of identification only if both the name and address of the voter are listed on the card. If the address portion has been detached, the voter identification card is no longer an acceptable form of identification.

The voter identification statute also requires that the voter identification card be “current.” ALA. CODE § 17-11A-1(b) (Supp. 2004). This Office has previously stated that the “term ‘current,’ as used in Act 2003-381, means ‘the most recent.’” Opinion to Honorable Nancy L. Worley, Secretary of State, dated August 12, 2003, A.G. No. 2003-212. Accordingly, a voter identification card is an acceptable form of identification for purposes of section 17-11A-1 only if it is the most recent voter identification card issued to that voter.

Moreover, for a voter identification card to be “current,” the address listed on the card must match the address shown on the list of registered voters. Therefore, to qualify as an acceptable form of voter identification, the address listed on the voter identification card must match the address of the voter as shown on the list of registered voters at the polling place. If the address does not match, the voter may either present another form of acceptable identification

or cast a provisional ballot in accordance with section 17-10A-2 of the Code of Alabama.

CONCLUSION

A voter identification card is an acceptable form of identification for purposes of section 17-11A-1 only if both the name and address of the voter are listed on the card. If the address portion has been detached, the voter identification card is no longer an acceptable form of identification.

A voter identification card is an acceptable form of identification for purposes of section 17-11A-1 only if it is the most recent voter identification card issued to that voter.

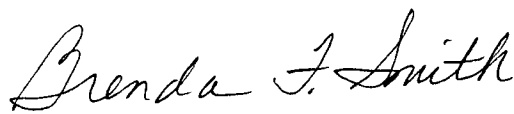
To qualify as an acceptable form of voter identification, the address listed on the voter identification card must match the address of the voter as shown on the list of registered voters at the polling place. If the address does not match, the voter may either present another form of acceptable identification or cast a provisional ballot in accordance with section 17-10A-2 of the Code of Alabama.

Because the answer to Question 5 does not involve the definition of "election cycle," there is no need to address Question 7.

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

Sincerely,

TROY KING
Attorney General
By:


BRENDA F. SMITH
Chief, Opinions Division