



**STATEMENT OF
WADE HENDERSON, PRESIDENT & CEO
THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS**

**“NEW STATE VOTING LAWS II: PROTECTING THE RIGHT TO VOTE IN THE
SUNSHINE STATE”**

**SENATE JUDICIARY SUBCOMMITTEE ON THE
CONSTITUTION, CIVIL RIGHTS AND HUMAN RIGHTS**

JANUARY 27, 2012

Chairman Durbin, Ranking Member Graham, and Members of the committee: I am Wade Henderson, president & CEO of The Leadership Conference on Civil and Human Rights. Thank you for the opportunity to submit testimony for the record regarding the problem of *restrictive* voting laws.

The Leadership Conference on Civil and Human Rights is a coalition charged by its diverse membership to promote and protect the civil and human rights of all persons in the United States. Founded in 1950 by A. Philip Randolph, Arnold Aronson, and Roy Wilkins, The Leadership Conference works in support of policies that further the goal of equality under law through legislative advocacy and public education. The Leadership Conference’s more than 200 national organizations represent persons of color, women, children, organized labor, persons with disabilities, the elderly, gays and lesbians, and major religious groups.

The Leadership Conference is committed to building an America that is as good as its ideals – an America that affords everyone access to quality education, housing, health care, collective bargaining rights in the workplace, economic opportunity, and financial security. The right to vote is fundamental to the attainment and preservation of each of these rights. It is essential to our democracy. Indeed, it is the language of our democracy.

Thankfully, in securing the right to vote, the days of poll taxes, literacy tests, and brutal physical intimidation are behind us. But today’s efforts at disfranchisement, while more subtle, are no less pernicious.

In just under ten months, Americans will be called to the polls to decide who our next president will be, determining the fate and direction of our country for years to come. The assault on our constitutional right to vote is a concerted effort to decide the outcome of the 2012 election before any ballot is cast.



Recently erected barriers to the ballot such as photo ID requirements, shortened early voting periods, limits on poll worker assistance, proof of citizenship requirements, restrictions on same day and third-party registration, and the disenfranchisement of former felons are nothing less than an all-out assault on democracy and the progress of the last century – indeed, on the very legacy of the civil and human rights movement.

These barriers to vote are not the product of independent actions occurring coincidentally throughout the country. Supporters of these requirements spuriously claim these restrictions are a meaningful tool for fraud prevention, though instances of in-person voter fraud are extremely rare. The truth is that they are very much part of a coordinated political effort throughout the country to abolish the voting rights of millions of Americans – particularly traditionally underrepresented groups that saw an increased turnout in the 2008 elections.

In 2011 alone, 34 state legislatures introduced voter suppression bills; laws have already passed in 14 of those states and are pending in eight. Unsurprisingly, among the states with new restrictions are those with a history of disenfranchising minorities, including Texas, Tennessee, South Carolina, Mississippi and Alabama, and important swing states like Wisconsin and Florida.¹

According to a report by the Brennan Center for Justice, entitled “Voting Law Changes in 2012,”² the states that have passed such laws hold 171 Electoral College votes, two-thirds of the 270 needed to win the presidency. Further, out of the 12 battleground states in the upcoming election, five have already restricted voting rights and two others are considering new limitations. These targeted changes are estimated to restrict the voting rights of more than five million Americans, which could have a significant impact on the upcoming presidential election.

A Solution in Search of a Problem

Voter fraud is not the primary issue. It is already illegal and punishable by jail time and fines for anyone to attempt to commit voter fraud. Already existing punishment is why voter impersonation and other election crimes are so rare. It is simply not worth the risk.

Proponents of the new voting law changes claim that voter fraud is commonplace, yet multiple studies have shown that the problem is essentially nonexistent. And anecdotal evidence held up by proponents has consistently been debunked.

Central in many of these changes is the requirement of a government issued photo ID, which places additional restrictions inhibiting one’s access to the ballot. The notion that ID restrictions combat fraud, cut costs and secure elections is a fallacy. First, voter fraud is extremely rare; the only type of voter fraud that a photo ID could address would be voter impersonation – that is, when voters show

¹ Brennan Center for Justice, “Voting Law Changes in 2012”

http://www.brennancenter.org/content/resource/voting_law_changes_in_2012/

² *Id.*



up at the polls and pretend to be someone they are not. This kind of fraud simply does not exist at a significant level anywhere in this country. “It is more likely that an individual will be struck by lightning than that he will impersonate another voter at the polls,” according to a recent report on voter fraud by the Brennan Center for Justice.³

Indeed, another recent analysis of data from all 50 states and the U.S. Department of Justice found that voter impersonation – again, the only type of fraud that a photo ID can address – is exceptionally rare.⁴ Only 24 people were convicted or plead guilty to illegal voting at the federal level between 2002 and 2005.⁵ *None* of them were attempting to impersonate someone else.

The real problem to address is voter turnout. Voter turnout in presidential years has declined since 1960,⁶ and pitifully hovers below 60 percent of the eligible electorate.⁷ We should be making every effort to increase participation in our democracy, not erecting barriers to voting based on illusory problems that serve partisan interests. Yet, despite the wealth of data to the contrary, resources are being used to “correct” problems that frankly do not exist.

If these laws truly aimed to curb fraud and secure processes, they would identify ways to combat real election issues, like deceptive practices and intimidation, through public education. They could better publicize existing election laws and penalties to promote awareness. They could more widely post eligibility requirements at the voting polls for both voters and poll workers. They could start election hotlines like Georgia’s Stop Voter Fraud hotline. Finally, they could invest in updating voter registration rolls so that poll workers would have up-to-the-minute data on voter eligibility. Yet, these steps aren’t likely to be taken because most states know that voter fraud is not the issue.

Impact of Voter Suppression Laws

Florida’s new law, HB 1355, is one of the most comprehensive and significantly restrictive changes to voting laws this past year. Among other things, the law reduces the early voting period, eliminates voting the Sunday before an election, makes it more difficult to change your address at the polling place, and creates a series of new administrative procedures making it more cumbersome for individuals and volunteer organizations to register voters.

Although many historical barriers to voting—like property requirements, literacy tests, and poll taxes—are no longer constitutional, for many Americans voter registration continues to be an

³ Justin Levitt, “The Truth About Voter Fraud,” The Brennan Center for Justice at New York University School of Law, 4, at <http://www.truthaboutfraud.org/pdf/TruthAboutVoterFraud.pdf>.

⁴ Advancement Project, “What’s Wrong With This Picture? New Photo ID Proposals Part of a National Push to Turn Back the Clock on Voting Rights,” 4, <http://www.advancementproject.org/sites/default/files/publications/Picture%20ID6%20low.pdf>

(citing Lorraine C. Minnite, *The Myth of Voter Fraud*, Cornell Univ. Press (2010), showing that allegations of widespread voter impersonation fraud at the polls are not supported by empirical

⁵ *Id.*

⁶ <http://www.fairvote.org/voter-turnout>

⁷ www.infoplease.com



impediment. More than a quarter of voting-age Americans are not registered and thus cannot vote. In 2008, 2.13 million voters registered in Florida, at least 8.24 percent or 176, 000 of them did so through registration drives. This number is even more compelling when analyzed by race.

A Census Bureau report reveals that in 2004, 17.4 percent of African-Americans and 18.9 percent of Hispanic voters in Florida registered through private registration drives, compared to only 6.6 percent of non-Hispanic whites.⁸ Likewise, in 2008, we see a similar trend, with 12.7 percent of black voters and 12.1 percent of Hispanic registered voters registered through drives compared to only 6.3 percent of non-Hispanic white registered voters in Florida.⁹ Furthermore, among those who said they voted in Florida in 2008, 6.3 percent of white voters were registered through drives, versus 11.5 percent of black voters and 11.5 percent of Hispanic voters.¹⁰

As the data suggests, voter registration drives conducted by nonpartisan, nonprofit organizations have dramatically increased voter registration rates among groups that have traditionally faced the greatest barriers to voting, including low-income, minority, and elderly. Consequently, HB 1355's dramatic impact on third-party registrations is poised to have a significant impact on one of the state's key mechanisms in achieving minority participation and access to the ballot.

However, as a result of the restrictive changes in the law, including shortening the time period for submission of voter cards through drives by 80 percent (from 10 days to 48 hours), third-party registration drives have been dramatically curtailed in the state and may come to a complete halt. Many non-partisan organizations like the League of Women Voters of Florida and Rock the Vote have indefinitely suspended all voter registration efforts in the state for fear incurring hefty fines that would be assessed for mistakenly not complying with the panoply of administrative regulations now in place. Deidre McNabb, president of the Florida League of Women Voters, explained the burden the new law placed on her volunteers. "When we looked at the laws, we felt that this would put our thousands of volunteers across the state who have registered voters for 70 years in Florida at a grave disadvantage. We did not feel that we as an organization could ask our volunteers to undergo that kind of vague, restrictive and punitive restriction which the legislature has tried to impose," McNabb said.¹¹

The bill leads to absurd results. By requiring third-party groups to submit voter registration forms to the state within just 48 hours or risk fines, the bill would dampen the enthusiasm of volunteers and teachers around the state who are committed to encouraging participation in our democracy. The

⁸ U.S. Census Bureau, Current Population Survey, November 2004. The national figures in 2004 were: 7.8% of non-Hispanic whites; 12.7% of blacks; and 12.9% of Hispanics. See Table 14, <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2004/tables.html>.

⁹ U.S. Census Bureau, Current Population Survey 2008, available at <http://www.census.gov/apsd/techdoc/cps/cpsnov08.pdf>. All data from the CPS on methods of voter registration is self-reported by survey respondents. The corresponding national figures in 2008 were: 5.4% of non-Hispanic whites registered at private drives; 11.1% of African-Americans; and 9.6% of Hispanics. See Table 14, <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2008/tables.html>.

¹⁰ U.S. Census Bureau, Current Population Survey 2008, available at <http://www.census.gov/apsd/techdoc/cps/cpsnov08.pdf>.

¹¹ http://tpmmuckraker.talkingpointsmemo.com/2011/07/florida_league_of_women_voters_drops_registration.php

experiences of two Florida teachers further illustrate the challenges that new third-party registration requirements pose.

The Daytona Beach News-Journal recently reported that as a result of HB 1355, New Smyrna Beach high school teacher Jill Cicciarelli is under investigation by the state for pre-registering high school students to vote without first registering with the state, for which she could be fined up to \$1000.¹²

Also of concern is the story of another educator, Dawn Quarles, an advanced placement government teacher in Santa Rosa County, who is facing similar charges. As reported by *the Associate Press*, “Ms. Quarles admitted in the past she had not gotten forms in to the Secretary of State within the 10 day window, but had made sure she had done so this time, only to find out the rule had been changed to 48 hours.” Quarles said 48 hours was not enough time to mail the forms to the Santa Rosa County supervisor’s office. “That’s ridiculous, that’s crazy,” Quarles said “I don’t know about it, so how can I abide by it?”¹³

For many young people and first-time voters, high school is their entry into civic engagement. But with teachers facing “voter fraud” charges, high school-aged youth will most likely not be registered to vote in 2012 in Florida. Moreover, the restraints to third-party voter drives will have a deleterious impact on minority turnout at the polls.

According to U.S. Census Bureau data from the 2004-2008 election cycles, African Americans and Hispanics rely more than white voters on third-party registration, and are more than twice as likely to register to vote through private drives as whites. Further, minority reliance on such drives is greater in Florida than anywhere else in the country.

Costs of other Restrictive Changes

One significant change is the shortened early voting period, which has been reduced from 14 days to 8 days, and the elimination of voting on the last Sunday before the election. In recent years early voting has surged, with more than a dozen states launching or expanding early voting in their state, according to the National Council of State Legislatures. Further, data compiled by the *Associated Press* and Edison Research reveal that in the 2008 general election, 34 percent of voters nationwide cast ballots before Election Day, up from 22.2 percent in 2004.

In Florida, early voting has had similar success and is widely utilized in the African-American community. According to the National Association for the Advancement of Colored People, more

¹² <http://www.news-journalonline.com/news/local/southeast-volusia/2011/10/23/new-florida-election-law-stirs-up-controversy.html>

¹³ <http://www2.tbo.com/news/politics/2011/nov/>



than 32 percent of those who voted early on that last Sunday before Election Day were African American and nearly 24 percent were Latino. In the 2008 general election 54 percent of African-American voters cast their ballots early and made up nearly one-third of the statewide voter turnout the Sunday before the election.

However, supporters of HB 1355, and others laws like it, tout the changes as being necessary to curb fraud, save money and ensure a more orderly process. However, they are unable to provide one single indicia of evidence to support these claims. In fact, there is evidence to the contrary, revealing that reforms put in place after 2000 have largely been successful. According to the Florida Department of State, fraud is minimal; only 31 cases of alleged voter fraud have been referred to the Department of Law Enforcement in the past three years.¹⁴

New regressive voting laws are thus targeting communities that have traditionally struggled for ballot access – and that have fought long and hard for the access they have – and setting back the clock on their progress and their rights.

Conclusion

Fortunately, there is a glimmer of hope. Throughout the country advocates have worked diligently to educate and mobilize constituents to combat these pernicious restrictions. In Florida, the League of Women Voters and the ACLU have filed a lawsuit challenging the constitutionality of HB 1355. In addition, legislation will be introduced this session to counter many of the restrictive provisions of the law. These are just a few examples of the ways Americans are fighting back against laws designed to suppress their constitutional right to vote.

It is important to note, in some states, governors have protected the rights of their citizens by vetoing corrosive voter ID laws. Yet many others have fallen prey to the rhetoric – or orchestrated and perpetuated the rhetoric themselves – in an attempt to disenfranchise thousands of voters across the country for political gain. Rhetoric like that of Nevada Governor Brian Sandoval that “the right to vote is a privilege” – a contradiction in terms if I have ever heard one – cannot be tolerated in a democracy founded on equality.¹⁵ Explanations from New Hampshire House Speaker, Bill O’Brien, that college students are “foolish” and just “vote their feelings” and so should not be able to cast a ballot have no place in the 21st Century.¹⁶ Unfortunately, it is this type of rhetoric that has dominated the conversation.

It should be the duty of our policymakers to remove the barriers to participation for all citizens, not to erect new ones under the guise of fixing a problem that doesn’t actually exist. Removing barriers involves modernizing the voting system with automated registration, online access to records, and accessible voting machines that would allow more than **65 million eligible Americans to**

¹⁴ http://www.nytimes.com/2011/05/06/us/politics/06voting.html?_r=1



participate. Investing in a uniform, simplified process for voting would eliminate unnecessary bureaucratic processes, save states money, and save election officials time. Right now state legislators are committed to doing the opposite. Requiring photo ID, limiting early voting days, restricting third-party registration and other impositions on the right to vote will not preserve our democracy. It will only serve to exclude many Americans from participating in the important decisions that face us all.

Thank you for your leadership on this critical issue.