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Civil Rights Division

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*Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530*

October 29, 2007

The Honorable Bill McCollum
Attorney General
107 Gaines Street, Room B23
Tallahassee, Florida 32399-6549

Ms. Maria Matthews
Assistant General Counsel
Florida Department of State
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Attorney General McCollum and Ms. Matthews:

This refers to Chapter 2007-30, Laws of Florida (H.B. 537) (2007), which amends the election code for the State of Florida, the specific provisions of which are provided in Attachment A, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on August 8, 2007; additional information was received on August 29, 2007.

We understand that in 2005 the State passed Chapter 2005-286, amending Section 103.091, Florida Laws, pertaining to political parties. According to our records, this change affecting voting has not been submitted to the United States District Court for the District of Columbia for judicial review or to the Attorney General for administrative review as required by Section 5 of the Voting Rights Act. If our information is correct, it is necessary that this change either be brought before the District Court for the District of Columbia or submitted to the Attorney General for a determination that it does not have the purpose and will not have the effect of discriminating on account of race, color, or membership in a language minority group. Changes which affect voting are legally unenforceable unless Section 5 preclearance has been obtained. *Clark v. Roemer*, 500 U.S. 646 (1991); Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.10).

Chapter 2007-30, Section 36, amending F.S. 103.091, changes the date for qualifying as an executive committee member and adds to the membership of the governing party's state executive committee. Because Chapter 2007-30, Section 36 and the unsubmitted change are directly related, they must be reviewed simultaneously. Accordingly, it would be inappropriate for the Attorney General to make a preclearance determination on the instant change(s) until the related changes have been submitted for Section 5 review. See 28 C.F.R. 51.22(b) and 51.35.

Should you elect to make a submission to the Attorney General for administrative review rather than seek a declaratory judgment from the District Court for the District of Columbia, it should be made in accordance with Subparts B and C of the procedural guidelines. At that time we will review all changes simultaneously; however, any documentation previously provided need not be resubmitted.

Our analysis also indicates that the information sent is insufficient to enable us to determine that the proposed changes in Chapter 2007-30 to third-party voter registration groups (Section 2, amending F.S. 97.0575), acceptance of voter registration applications (Section 13, amending F.S. 97.053), identification required at polls (Section 26, amending F.S. 101.043), and provisional ballots (Section 27, amending F.S. 101.048) do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, as required under Section 5. The following information is necessary so that we may complete our review of your submission:

1. Documents reflecting the legislative history, including committee proceedings, of the following provisions of Chapter 2007-30: a) Third-Party Voter Registration Groups; b) Verification of voter registration applications, including the shortening of the timeframe for provisional voters to bring in evidence; c) Identification required at polls.

2. Number of registered voters by race registered by a) third-party registration groups and b) each other method, such as driver's license offices, respective state agencies providing voter registration, and public libraries in Collier, Hardee, Hendry, Hillsborough, and Monroe Counties ("covered counties") for each year for which such information is available from 2001 to 2007.

3. A detailed description of the "current practice" referred to in your submission of verifying voter registration applications and notifying voters of incomplete applications and the effective date of this practice in the covered counties.

4. An explanation of the basis for requiring that a provisional ballot must be verified in two days in order to be counted toward the first set of unofficial returns which determines the necessity for a recount.

5. An electronic record (.xls or .txt format) of every resident of voting age by race, if available, in the covered counties who has a state-issued drivers license or non-driver state ID, and an electronic list (.xls or .txt format) of complete records by race, if available, of all registered voters in each county.

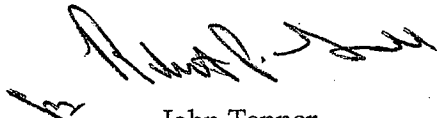
6. A detailed description of all measures that will and have been taken in order to inform residents of the covered counties of the removal of the two forms of photo identification documents previously accepted for voter identification contained in Chapter 2007-30.

The Attorney General does not interpose any objection to the remaining specified changes. See Attachment A. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Chapter 2007-30 includes provisions that are enabling in nature. Therefore any changes affecting voting that are adopted pursuant to this legislation require Section 5 review (e.g., rules adopted to implement the voting system audit requirements pursuant to F.S. 101.5911). Also, local jurisdictions are not relieved of their responsibility to seek Section 5 review of any changes affecting voting that are adopted pursuant to this legislation (e.g., changes in municipal election dates or voting method implemented pursuant to F.S. 101.75 and 101.151). See 28 C.F.R. 51.15.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the State plans to take concerning these matters. If you have any questions, you should call Ms. Hillary Maki (202-305-4857) of our staff. Refer to File Nos. 2007-3844 and 2007-5429 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,

A handwritten signature in black ink, appearing to read "John Tanner", is written over the typed name.

John Tanner
Chief, Voting Section

Enclosure

Attachment A

This refers to certain acts of the Florida Legislature submitted pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. Your submission includes the following:

1. Chapter 2007-30, Section 1 (2007) that amends F.S. 97.021, which pertains to the definition of third party registration organization;
2. Chapter 2007-30, Section 2 (2007), that amends F.S. 97.0575, which pertains to third party voter registration;
3. Chapter 2007-30, Section 3 (2007) that amends F.S.103.101, which pertains to the presidential preference primary;
4. Chapter 2007-30, Section 4 (2007) that amends F.S. 101.75, which pertains to the change in election date for municipal elections*;
5. Chapter 2007-30, Section 5 (2007) that amends F.S. 101.151, which pertains to the specifications for ballots*;
6. Chapter 2007-30, Section 6 (2007), that amends F.S. 101.56075, which pertains voting methods;
7. Chapter 2007-30, Section 7 (2007) that amends F.S. 101.5612, which pertains to the testing of tabulating equipment;
8. Chapter 2007-30, Section 8 (2007), that amends F.S. 101.591, which pertains to the voting system audit;
9. Chapter 2007-30, Section 9 (2007) that enacts F.S. 101.5911, which pertains to the Department of States rule making authority for voting system audit procedures*;
10. Chapter 2007-30, Section 10 (2007) that enacts which pertains to the certified voting systems;
11. Chapter 2007-30, Section 11 (2007), that enacts an unnumbered provision the appropriation of funds form the Help America Vote Act;
12. Chapter 2007-30, Section 12 (2007) that amends F.S. 97.041, which pertains to the qualifications to register or vote;
13. Chapter 2007-30, Section 13 (2007) that amends F.S. 97. 053, which pertains to the acceptance of voter registration applications;

14. Chapter 2007-30, Section 14(2007) that amends F.S. 99.012, which pertains to restrictions on individuals qualifying for public office;
15. Chapter 2007-30, Section 15 (2007) that amends F.S. 99.021, which pertains to the form of the candidate oath;
16. Chapter 2007-30, Section 16 (2007) that amends F.S. 99.061, which pertains to the method of qualifying for nomination or election to federal, state, county or district office;
17. Chapter 2007-30, Section 17 (2007) that amends F.S. 99.095, which pertains to the petition process for qualifying in lieu of payment of qualifying fee and party assessment;
18. Chapter 2007-30, Section 18 (2007) that amends F.S. 99.096, which pertains to minor political party candidates on the ballot;
19. Chapter 2007-30, Section 19 (2007) that amends F.S. 99.0965, which pertains to minor parties' selection of candidates;
20. Chapter 2007-30, Section 20 (2007) that amends F.S. 100.041, which pertains to the officers chosen at a general election;
21. Chapter 2007-30, Section 21 (2007) that amends F.S. 100.151, which pertains to a candidate's name on the general election ballot;
22. Chapter 2007-30, Section 22 (2007) that amends F.S. 101.161, which pertains to primary election date;
23. Chapter 2007-30, Section 23 (2007) that amends F.S. 101.111, which pertains to filling vacancies for constitutional offices;
24. Chapter 2007-30, Section 24 (2007) that amends F.S. 101.191, which pertains general election laws applicable to special election returns;
25. Chapter 2007-30, Section 25 (2007) that amends F.S. 101.371, which pertains to the initiative procedures for placement on the ballot;
26. Chapter 2007-30, Section 26 (2007) that amends F.S. 101.043, which pertains to identification required at the polls;
27. Chapter 2007-30, Section 27 (2007) that amends F.S. 101.048, which pertains to provisional ballots;
28. Chapter 2007-30, Section 28 (2007) that amends F.S. 101.573, which pertains to the record of election results by precincts;

29. Chapter 2007-30, Section 29 (2007) that amends F.S. 101.6103, which pertains to the mail ballot election procedure;

30. Chapter 2007-30, Section 30 (2007) that amends F.S. 101.62, which pertains to requests for absentee ballots;

31. Chapter 2007-30, Section 31 (2007) that amends F.S. 101.68, which pertains to the canvassing of absentee ballots;

32. Chapter 2007-30, Section 32 (2007) that amends F.S. 101.112, which pertains to the deadline for submission of county returns to the Department of State;

33. Chapter 2007-30, Section 33 (2007) that amends F.S. 102.141, which pertains to the duties of the county canvassing board;

34. Chapter 2007-30, Section 34 (2007) that amends F.S. 102.166, which pertains to the manual recount;

35. Chapter 2007-30, Section 35 (2007) that amends F.S. 103.081(3), which pertains to the use of a political party's name when advertising;

36. Chapter 2007-30, Section 36 (2007) that amends F.S. 103.091, which pertains to political parties;

37. Chapter 2007-30, Section 37 (2007) that amends F.S. 103.141, which pertains to the removal of county executive committee members for violations of oath of office;

38. Chapter 2007-30, Section 38 (2007) that amends F.S. 103.151, which pertains to the removal of state executive committee members for violations of oath of office;

39. Chapter 2007-30, Section 39 (2007) that amends F.S. 103.161, which pertains to the removal or suspension of officers or members of the state executive committee or a county executive committee;

40. Chapter 2007-30, Section 40 (2007) that amends F.S. 105.031, which pertains to the items required to be filed in a nonpartisan election;

41. Chapter 2007-30, Section 41 (2007) that amends F.S. 106.021, which pertains to campaign treasurers and deputies;

42. Chapter 2007-30, Section 42 (2007) that amends F.S. 106.04, which pertains to committees of continuous existence;

43. Chapter 2007-30, Section 43 (2007), that amends F.S. 106.055, which pertains to

valuation of in-kind contributions;

44. Chapter 2007-30, Section 44 (2007) that amends F.S. 106.08(10), which pertains to limitations on contributions;

45. Chapter 2007-30, Section 45 (2007) that amends F.S. 106.09, which pertains to cash contributions and contributions by cashier's check;

46. Chapter 2007-30, Section 46 (2007) that amends F.S. 106.143, which pertains the requirements for political advertisements circulated prior to elections;

47. Chapter 2007-30, Section 47 (2007) that amends F.S. 106.17, which pertains to polls and surveys relating to candidacy;

48. Chapter 2007-30, Section 48 (2007) that amends F.S. 106.25, which pertains to reports of alleged violations to the Florida Election Commission;

49. Chapter 2007-30, Section 49 (2007) that amends F.S. 106.35(4), which pertains to the distribution of funds from the Election Campaign Financing Trust Fund;

50. Chapter 2007-30, Section 50 (2007) that amends F.S. 112.51, which pertains to the suspension and removal of municipal officers from office;

51. Chapter 2007-30, Section 51 (2007) that amends F.S. 106.37, which pertains to willful violations relating to campaign finance laws;

52. Chapter 2007-30, Section 52 (2007) that amends F.S. 189.405, which pertains to the general requirements and procedures for special district elections;

53. Chapter 2007-30, Section 53 (2007) that amends F.S. 191.005, which pertains to independent special fire control districts;

54. Chapter 2007-30, Section 54 (2007) that amends F.S. 582.18, which pertains to the election of the supervisor of soil and water control districts;

55. Chapter 2007-30, Section 55 (2007) that amends F.S. 876.05, which pertains to the oath of office for public employees;

56. Chapter 2007-30, Section 56 (2007) that enacts F.S. 99.0615, which pertains to residency requirements for write in candidates.

* Includes enabling legislation