



June 17, 2005

Via fax, e-mail, and U.S. mail

The Honorable Jeb Bush
Governor, State of Florida
PL 05, The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

Dear Governor Bush:

We urge you to veto House Bills 1567 and 1589, which are purportedly designed to improve and reform Florida's elections procedures. We urge you to take this action because portions of this legislation seriously interfere with the right to vote. These features include, but are not limited to, the following:

- **The requirement that challenged voters and voters who do not produce proper ID at the polls must vote by provisional ballot.** While the provisional ballot is useful for cases in which voter eligibility cannot be determined through any other means at the polling place, it jeopardizes the right to vote when compared to the ability to vote by casting a regular ballot. For example, if an eligible voter mistakenly casts a provisional ballot in the wrong precinct, the ballot will be "rejected as illegal", even for the races in which the voter was otherwise eligible to cast the ballot.

Requiring all persons without ID to vote a provisional ballot – even when there are no other problems with their voter registration and when they provided proper ID at the time of registration or to the Supervisor of Elections before Election Day – will certainly cause eligible voters to cast a provisional ballot. This makes it far more likely that eligible voters will lose their right to vote or the opportunity to have their vote counted.

Furthermore, the disenfranchisement that results is likely to be shouldered disproportionately by people within minority communities (with regard to whom research indicates are more likely to move within the county, thus not needing to re-register but more likely to appear in the wrong precinct), those who are elderly (who either may not have current photo ID or who may not bring it with them if they get a ride to the polls), and the poor (who are also less likely to have the required identification).

- **The requirement that challenged voters vote by provisional ballot is also more likely to increase the number of challenges.** This change is unnecessary in light of the fact that there were few reports of time-consuming and disruptive challenge processes at the polls during the last election. With more voters challenged, more voters will vote a provisional ballot, and more eligible voters will wrongly lose their most fundamental right in a democracy.

Given that many provisional ballots are rejected, and that voters will not be able to be "on the spot" and able to refute the challenge at the canvassing board, many eligible voters may be wrongly disenfranchised through this new process. This is especially true given the 30 day window for making pre-election challenges.

- **The legislation unduly restricts the ability of third parties to conduct voter registration activities.** Properly implemented voter registration drives by third parties have long been a means of reaching out to communities that might not be reached through governmental mechanisms. The National Voter

Registration Act indicates that mail-in voter registration forms should be made widely available to private entities for organized voter registration programs. This is especially important in Florida, where poor administration of past elections has led to a high level of distrust by many communities of elections officials and their representatives. Restricting the ability of third parties to register voters will mean that fewer citizens participate in our democratic process. While there are, no doubt, ways that the voter registration process can be improved, any changes made should encourage, rather than discourage, voter registration efforts.

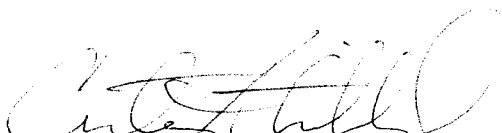
- **The attorney's fees provision, which imposes costs on the non-prevailing party, will deter enforcement of civil rights laws and meritorious civil rights lawsuits.** This provision – with its potential to permit substantial monetary liability against a plaintiff challenging election practices – will have a serious and negative impact on minority communities, and is directly contrary to the intent of Congress in enacting the federal attorney's fee provisions. The provision also presents an impediment to Florida's Constitutional right of access to the courts. The addition of this new fees provision is not only harmful to our democratic process; it is completely unnecessary since remedies already exist under state law and federal law for frivolous, unwarranted, or vexatious litigation. The Division of Elections made no such claim in any of the litigation brought in 2004.
- **We are concerned that felon purging will now be handled first by the Division of Elections as part of maintaining the Florida Voter Registration System (FVRS) rather than by the Supervisors of Elections (SOE's) based upon information supplied by the Clerks of Court.** As you are painfully aware, the track record of the Division of Elections in compiling accurate lists of voters to be removed has been poor. Supervisors of Elections should have full access to all available information concerning a voter's status, and voters should not be removed without firm evidence, produced in writing, of a person's lack of eligibility to vote, and confirmation that the identity of the voter and the identity of the person convicted of a felony are one and the same. Additionally, the reliance on mail as the method of notification continues to be problematic, especially for those who move frequently within the county, as it provides an inadequate opportunity to contest a wrongful removal before it occurs.

For the above reasons, among others, we urge you to veto House Bills 1567 and 1589. Advancing Florida's election processes requires not only accurately identifying problems and opportunities for improvement, but also finding appropriate solutions and methods of advancement. Many of the solutions and improvements that these bills propose are neither. We respectfully ask you to reject this misguided legislation.

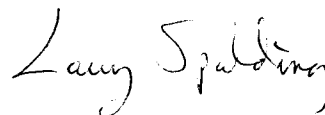
Sincerely,



Howard Simon
Executive Director



Courtenay Strickland
Director, Voting Rights Project



Larry Spalding
Legislative Staff Counsel