

July 7, 2005

Mr. John Tanner
Chief, Voting Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Re: Comments to Georgia Submission under Section 5 (#2005-2029)

Dear Mr. Tanner:

We are writing on behalf of individuals and organizations who are advocates for voting rights. They are identified at the end of this letter and on Schedule I attached hereto.

The purpose of this letter is to make known our collective opposition to pre-clearance approval of Georgia House Bill 244,¹ a recently enacted measure, passed by the Georgia Assembly on March 31, 2005 and signed by Governor Perdue on April 22, 2005, amending certain provisions of the Georgia code to require government issued photo identification as a prerequisite for voting in Georgia. It is our understanding that this matter has been submitted to you by the State of Georgia as submission 2005-2029. This letter refers to that submission and the materials provided therewith.

The photo identification requirements found in §§ 24, 25, and 59 of H.B. 244 should fail pre-clearance approval as required by Section 5 of the Voting Rights Act (42 U.S.C. 1973(c)) (the "Act") because: (1) they carry a retrogressive racial impact that disfranchises minority voters in Georgia; (2) they are unnecessary and their stated purposes are pretextual (3) the circumstances surrounding their enactment suggest that they were enacted with a retrogressive purpose; and (4) the Georgia General Assembly failed to provide measures, such as increasing access to Department of Motor Vehicle Services ("DMVS") offices, educating the public about the new requirements, or mitigating of the cost and burdens, to ameliorate the racial impact of these provisions.

As you are well aware, Section 5 of the Voting Rights Act requires the Department of Justice to refuse clearance to state legislation affecting voting procedures that either has a discriminatory purpose or would "have the effect of denying or abridging the right to vote on account of race or color." 42 U.S.C. 1973(c). Georgia bears the burden of

¹ This provision may also be referenced as Georgia Legislative Act 53 (2005). Throughout this letter we will refer to it as "H.B. 244."

proving that its proposed changes do not violate either prong of Section 5. *Brooks v. State Bd. of Elections*, 775 F. Supp. 1470 (S.D. Ga. 1989), *aff'd* 498 U.S. 916 (1990). Our review of Georgia's submission to the Department leads us to conclude that Georgia has not carried its burden to show that H.B. 244 does not have a racially discriminatory purpose or impact.

Our conclusion that Georgia has failed to carry its Section 5 burden is not without thorough consideration and is difficult to overstate. We draw your attention to the following precedent:

- In 1994 and 1995, the Department of Justice interposed objections to a Louisiana voter identification statute that sought to require first time voters who registered by mail to present photo identification at the poll.
- In 1997, the Attorney General of Michigan issued an official opinion declaring unconstitutional a voter identification statute adopted by the Michigan legislature that was less restrictive than the provisions in H.B. 244.
- Also in 1997, the Federal Election Commission report noted that photo identification entails major expenses and presents an undue and potentially discriminatory burden on citizens exercising their fundamental right to vote.

Currently, Georgia law allows voters to gain entry to polls using non-photo identification, including a valid birth certificate, a valid social security card, certified naturalization documentation, a current utility bill, bank statement, government check, or any government document bearing the name and address of the voter.² Voters who do not have on their person any of these forms of identification may, under current Georgia law, execute a sworn statement that they are qualified to vote.³ If H.B. 244 is cleared by the Department and implemented in Georgia, the permissible forms of identification enabling a person to vote will be reduced from seventeen to six and the possession of an acceptable form of identity card will become an absolute prerequisite to voting, thereby creating a substantial racial impact that disfranchises thousands of Georgia voters.

In order to more clearly state our concerns and our reasons for believing that the relevant provisions of H.B. 244 should not be cleared by the Department of Justice, we submit to you the following:

1. The photo identification requirements carry a retrogressive racial impact that disproportionately disfranchises minority voters in Georgia.

Georgia has not proposed any evidence that H.B. 244 does not inflict a retrogressively racial impact on Georgia's minority electorate. Yet in the face of this silence, there is overwhelming evidence demonstrating retrogressive effects. H.B. 244

² GA. CODE ANN. § 21-2-417.

³ Id. at § 21-2-417(b).

retrogressively creates significant new obstacles to voting for tens of thousands of minority Georgia citizens who are either (i) less likely to own a vehicle, thus obviating a primary motivation for obtaining government issued-photo identification, (ii) are unable to travel to a DMVS office in order to obtain identification due to geographic and economic limitations, or (iii) have limited ability or need to obtain a drivers license or photo identification as a result of other economic factors that have disproportional impact on minorities. In particular, we note the following:

- Recent census data shows that African Americans in Georgia are nearly five times less likely than whites to have access to a motor vehicle. *Census Summary File 3 (SF3)*.
- Community services data corroborates this statistic. For instance, the Central Presbyterian Church Outreach and Advocacy Center in downtown Atlanta estimates that over 94% of its clients seeking assistance to obtain photo identification are non-white.⁴
- DMVS locations are the only locations in Georgia in which drivers licenses and photo identifications are generally available to non-military and non-government employee citizens. Georgia has only 56 DMVS offices statewide as compared to 159 counties. As a result, and as the attached map indicates, many of Georgia's citizens in rural areas who do not have accessible transportation may need to travel through two counties to reach a DMVS. Given the statistics relating to access to an automobile by African Americans coupled with the scarcity of DMVS offices in Georgia, African Americans have disparately less access than whites to DMVS locations.
- Georgia recently eliminated the only two DMVS location inside the City of Atlanta, the state's most densely populated urban area, and one which is populated by a substantial number of African American residents. A person living in the downtown, southeast, and southwest portions of Atlanta (which have a substantially high minority population) must now travel 10-15 miles to access a DMVS.
- There are limited transportation alternatives available to individuals who do not have access to motor vehicles. In rural Georgia, where there is no MARTA service and limited bus service, poverty-level residents (a substantial number of whom are minorities) as well as persons with mobility impairments or other disabilities (a significant share of whom are minorities) face even more cumbersome geographic impediments. For instance, a person living in Greene county would have to travel 35 miles to reach a DMVS station. Again, given that African American residents are nearly five times less likely than whites to have access to a car, this distance makes obtaining photo identification a virtually insurmountable barrier to voting.
- Additionally, Georgia's history suggests there are numerous people, born as late as the mid-1950s, who were not issued birth certificates, making it far more difficult for them to get any state license or identification. Though midwifery was

⁴ 2004 Outcome Spreadsheet for the Central Presbyterian Church Outreach and Advocacy Center.

widespread, Georgia did not license midwifery until 1956.⁵ We have been informed of people who were delivered by midwives and who did not have a birth certificate issued. It is certainly a safe assumption that persons born without the attendance of any licensed health care professional were far less likely to get a birth certificate. This is a problem not merely for people born in the early 20th century whose numbers may be dwindling, but also for people as young as age 50.

In addition to posing racially disparate geographic and transportation obstacles to obtaining a photo ID, and thus to voting, H.B. 244 also imposes racially disparate economic barriers to voting. A report by the Kaiser Family Foundation demonstrates that non-whites in Georgia are nearly six times more likely than whites to subsist below the poverty line.⁶ Accordingly, numerous factors relating to economic welfare of minority voters exacerbate the racial impact of H.B. 244.

- Affordable transportation for minority voters is scarce. While MARTA transportation is available in the Atlanta metro area, it costs \$3.50 for a roundtrip ticket; a single mother traveling with two children would pay \$10.50 simply to reach a DMVS from downtown Atlanta.⁷ In many cases, MARTA does not have a station with proximate location to a DMVS station, and thus additional transportation costs may be incurred.
- Aside from transportation, obtaining government issued photo identification poses significant costs. Disregarding the proposed reduced cost of photo identifications for individuals who sign a sworn affidavit that they are indigent (which in its own respect bears a cost of personal pride and self worth) and the aforementioned transportation costs, there are other economic burdens related to obtaining an identification card. In order to obtain a photo identification card, an individual must present verification of his or her full name and date of birth in the form of a certified copy of his or her birth certificate, which varies from \$10.00 to \$45.00, depending on his or her state of birth; a valid passport, which costs \$85.00; certified naturalization records, which cost \$19.95; or a certified copy of court records of adoption or name change, which costs \$1.00 to \$2.00.
- In addition to birth and citizenship data, persons seeking photo identification must also furnish proof of Georgia residence in the form of a utility bill, bank statement, current valid rental contract, or employer verification—all of which presume a minimal level of economic resources. In reality, not all Georgians eligible to vote possess this level of economic sufficiency; and, as the Kaiser Foundation data demonstrates, non-white minorities in Georgia are disparately more likely to fall below the poverty line than whites.

⁵ See Act No. 119, Ga. Laws 1955, p. 252.

⁶ "Georgia Poverty Rate by Race/Ethnicity", available at <http://www.statehealthfacts.kff.org/cgi-bin/healthfacts.cgi?action=profile&area=Georgia&category=Demographics+and+the+Economy&subcategory=People+in+Poverty&topic=Poverty+Rate+by+Race%2FEthnicity>.

⁷ One Atlanta outreach organization, the Central Outreach and Advocacy Center, estimates that it spent over \$4,158 in a seven month period providing MARTA tokens to poor persons seeking photo identification.

- There is also the economic burden of taking time off from employment to obtain a photo identification card. Although Georgia does provide that voters have 2 hours of time pursuant to which an employer must allow an employee to vote, there is no similar requirement with respect to obtaining photo identification. Additionally, the time taken off to obtain a photo identification may be quite lengthy; given the geographic location and the waiting times at DMVS locations this could result in a half or full day of missed work. The photo identification requirement therefore places a further undue economic burden on hourly wage-earners, a disproportionate number of whom are minority voters.

In summary, we believe there are several factors that demonstrate Georgia's photo identification requirements will have a retrogressively disproportionate racial impact. Although we have identified several of these factors, we urge the Department to investigate these and other data supporting the above assertions. In particular, we recommend the Department investigate:

- the racial breakdown of counties with DMVS locations and those without such locations;
- calculations of distance and travel time to DMVS locations from areas with high concentrations of minority voters;
- data regarding use of automobiles and mass transit by racial minorities, their costs and accessibility;
- data regarding costs of information necessary to obtain photo identification;
- statistical information relating to the performance and waiting times for existing DMVS locations;
- data regarding employment statistics relating to hourly wage-earners by racial segment; and
- racial segmentation of persons by socio-economic class, above and below the poverty line, and by classification as indigent.

2. **The photo identification requirements are unnecessary and their stated purposes are pretextual.**

The primary justification for Georgia's photo identification provisions is the elimination of voter ID fraud. This is an unfounded justification. There is no need for the photo identification requirements. Given the racial impact, even if there were a compelling need, the retrogressive impact on minority voters would outweigh any stated benefits. We have identified several justifications for this assessment, including the following:

- The Georgia Secretary of State has asserted that not a single documented case of voter fraud involving impersonation has occurred during her tenure. For your convenience, we have attached a publicly available letter from the Secretary to the

Governor that addresses her concerns on this point as Georgia's chief election officer.

- Georgia already maintains several practices and procedures to ensure that cases of voter fraud would have been detected if they had in fact occurred. At the very least, Georgia would have received complaints from voters who have been denied the opportunity to vote (or were required to complete a provisional ballot) if an imposter had preceded them at the polls.
- The Legislature's purported justification of fraud prevention is undermined by the existence of severe criminal sanctions in Georgia for voter impersonation that have proven to be an effective deterrent.
- The Legislature's asserted justification is further drawn into question by the failure of the Legislature to consider alternative solutions besides the photo identification requirements.
- The failure of the legislature to investigate the existence of fraud by impersonation or to gather data on any racial disparity among those who currently possess a government issued photo identity card.

In essence, there is no voter fraud problem currently in existence in Georgia that H.B. 244 addresses. In contrast to the absence of evidence suggesting a voter impersonation problem, substantial evidence points to problems of fraud in absentee ballots—the one form of voting H.B. 244 exempts from the photo identification requirement and the one form more likely to be used by white than non-white voters. The Georgia Election Board has reviewed numerous cases of voter fraud relating to the use of absentee ballots. In fact, cases related to absentee ballots constitute the largest number of verifiable cases of fraud in Georgia. *See, e.g., U.S. v. McCranie*, 169 F.3d 723 (11th Cir. 1999). However, H.B. 244 grossly expands the opportunities for absentee voting by mail without any photo identification requirement whatsoever. As a result, the type of voter fraud that *has* frequently occurred in Georgia is not addressed in H.B. 244 and, in fact, is enhanced by the expansion of vote-by-mail opportunities promulgated by the statute.

Incredibly, Georgia references *McCranie* as the primary basis of support for the necessity of legislation to prevent voter fraud. But closer scrutiny reveals that *McCranie* does not justify the photo ID requirements because H.B. 244 would not affect the kind of fraud perpetrated in *McCranie*. In *McCranie*, candidates paid voters to vote for them using absentee ballots. H.B. 244 does not require photo identification for absentee voting and thus would do nothing to abate the kind of fraud carried out in *McCranie*. To the extent that Georgia relies on *McCranie* to justify the purpose of H.B. 244, it has failed to meet its § 5 burden.

We believe (i) a critical assessment of the lack of photo identification requirements with respect to absentee ballots coupled with (ii) a review of the racial and economic demographics related to the use of absentee-ballots will be an important and revealing analysis for the Department to undertake. We believe that the Department will conclude, as we have, that Georgia's purported justification for H.B. 244 appears in actuality not to

be oriented to eliminate the problem of voting fraud (since such problem is nonexistent), but, rather, to be a pretextual veil for discriminatory ends. Although we have identified and independently assessed related data to support our beliefs, we urge the Department to analyze the data to support the above assertions. In particular, we recommend the Department investigate:

- the history and statistical survey of incidents of in-person voting fraud based on fraudulent impersonation in Georgia, including complaints and anecdotal evidence;
- the current statutes and regulations deterring voting fraud;
- data regarding the voting methods of Georgia voters segmented by race;
- data regarding the voting methods of Georgia voters segmented by socio-economic class; and
- data regarding the voting methods of Georgia voters segmented by geographic location.

Throughout the legislative process, the General Assembly lacked data regarding the racial make-up of persons who currently possess one of H.B. 244's six types of "acceptable" photo identification. Because census data shows racial disparity among people with access to motor vehicles, allowing the inference that fewer blacks possess drivers licenses than whites, we suggest that the Attorney General request that Georgia provide data regarding racial disparity on all of the forms of identification that would be allowed under H.B. 244. This information will not only demonstrate the current racial impact, but will also show the extent to which the lack of DMVS access will exacerbate the racial impact. No assessment of the impact of H.B. 244 can be made without such information, and the failure to provide such assessment is a failure of the State of Georgia, as submitting authority, to meet its burden of proof.

3. *The legislative history of H.B. 244 suggests it was passed with retrogressive intent.*

The legislative history of H.B. 244 reveals no specific justification for the photo identification provisions other than a general concern for voter fraud which as we have argued above, is purely pretextual. In fact, although there are limited publicly available documentary records of the deliberations of the Georgia legislative session, the small amount of available written data with respect to the proceedings related to H.B. 244 assert that the consideration of the proposed statute was without serious inquiry into the racial impact of the photo identification requirement. In particular, the Minority Report of Senators on the Senate State and Local Government Committee recorded with the Clerk of the Legislature the following matters which point to the retrogressive intent of the Committee⁸:

- The Committee dealt unfairly with H.B. 244 generally.
- The Committee refused to allow meaningful discussion of the legislation.

⁸ For your convenience, we have attached a copy of the Minority Report to this letter.

- The Committee disregarded the disproportionate effect on minority voters.
- The Committee ignored the issue of absentee ballot fraud.
- The Committee also failed to conduct public hearings where affected voters could raise their concerns.
- In addition to the Minority Report, an investigation of the legislative proceedings reveals that the Legislature as a whole failed to consider alternative solutions to the purported voter fraud problem;
- By neglecting to consider the disparate racial impact or alternative solutions to the alleged fraud problem, the Legislature failed to meet its statutory burden of establishing there was no retrogressive purpose.

Moreover, the photo ID requirements of H.B. 244 were categorically opposed by many minority legislators. For example:

- State Senator Robert Brown opposed H.B. 244 on the grounds that, “[r]ural Georgians will be harmed because only 50 of Georgia's 159 counties have a DMVS, forcing people in rural parts of Georgia to travel significant distances in order to acquire acceptable identification. The elderly are harmed by HB 244, because 36% of all Georgians over the age of 75 do not have a driver's license. [H.B. 244] also disproportionately impacts African-Americans, as more than 10% of African-Americans in Georgia do not own automobiles.”⁹
- State Senator Kasim Reed noted that the bill is “riddled with problems and inconsistencies,” specifically that there are no provisions for voting education. As a result voters will not be informed that they need to obtain acceptable information ahead of election day; they will simply be sent home from the polls.¹⁰ Senator Reed described H.B. 244 as “the most aggressive bill and attack on the rights of minorities and African-Americans that I have seen in my tenure in the House and the Senate.”¹¹
- State Senator Steen Miles informed H.B. 244’s supporters of the consequences of its passage: “you're taking away freedom; you are taking away a pearl, a jewel of democracy . . . [f]or me and African-Americans, this bill is as painful and as hurtful as the swastika is to my Jewish friends.”¹²
- Senate Minority Leader Robert Brown compared the provisions of H.B. 244 to “spitting on the grave of Martin Luther King Jr.”
- Representative David Lucas said that H.B. 244 merits comparison to oppressive methods used to keep minorities out of the polls. “It reminds me of the poll tax.

⁹ Press Release, Senator Robert Brown, Governor Purdue Signs Sonny Hawk Law to Ensure Disenfranchisement of Countless Georgians (Apr. 23, 2005) (on file with author).

¹⁰ Chatham County Democratic Committee, Apr 4, 2005 available at <http://www.chathamdemocrats.com>.

¹¹ Sonji Jacobs and Carlos Campos, *Voter ID Bill Stirs Furor*, ATLANTA J.CONST., Mar. 30, 2005.

¹² Sonji Jacobs and Carlos Campos, *Foes Rip Passage of Voter Rights Bill*, ATLANTA J.CONST., Apr. 1, 2005.

It's basically against older, poor Democrats who don't have a driver's license, the majority of whom are black.”¹³

According to Representative Stan Watson, Chair of the Georgia Legislative Black Caucus (GLBC), house members of the caucus were unanimous in their opposition to the photo identity card requirement, stating that the bill would adversely disenfranchise people of color, the elderly and the people in rural Georgia. (The debate in the house was during consideration of H.B. 597, which was later folded into H.B. 244.) Only one African American legislator – a member who is elected from a district which has a 30.41% African American voting age population – voted for H.B. 244 in either the House or the Senate.¹⁴ Just as *Georgia v. Ashcroft*¹⁵ held that the views of legislators elected from minority districts were significant on the question of whether those districts would be retrogressively impacted, the views of those same legislators are also significant on the question of whether adding an additional voter qualification will be retrogressive because it will depress voting by minority voters. While the shape of districts can determine which candidates win or lose, the photo ID requirement determines who gets to vote, a fundamental issue on which minority legislators have particular experience and insight that should be accorded significance. The General Assembly did not thoroughly evaluate or weigh the views expressed by minority legislators. It is our belief that the Department’s review should consider and accord weight to the views of the minority legislators who have a high degree of visibility as to the retrogressive impact of H.B. 244 in their respective jurisdictions.

The absence of a legitimate purpose in conjunction with the disparate impact evidence presented to the Georgia General Assembly, as well as the clear and intentional disregard of countervailing information and views with respect to the racial impact of the proposed legislation suggests that Georgia may have enacted H.B. 244 with the intent to discriminate against racial minorities. Although we have independently assessed data to support our conclusions, we urge the Department to analyze the data supporting the above assertions. In particular, we recommend the Department investigate:

- the legislative history of H.B. 244, including any available written records of the proceeds;
- a racial analysis of the voting record of legislators on H.B. 244 and a corresponding statistical analysis of the racial composition of their respective districts;
- the alternative solutions to the purported voter fraud problem that were considered by the Legislature;

¹³ Mike Billips, *ID Bill Could Make Georgia Unique in Turning Away Voters*, THE MACON TELEGRAPH, Mar. 19 2005.

¹⁴ Representative Willie Talton, elected from Georgia House District 145, voted for the bill. See <http://georgiareapportionment.uga.edu/reports.html>. Rep. Talton is not a member of GLBC, though invited to be a member.

¹⁵ 539 US 461, 484 (2003).

- the weight the Legislature accorded the African-American legislative opposition;
- interviews with individuals who were involved in committee hearings as witnesses or advocates;
- evidence requested by or submitted to the committees and individual legislators regarding H.B. 244;
- interviews with individuals who publicly requested open hearing on the statute;
- the results of studies commissioned by the legislature, if any, to study the issues of voting fraud and racial impact of H.B. 244¹⁶;
- information gathered and prepared by the office of the Secretary of State for the Georgia General Assembly;
- all correspondence between members of the legislature, the office of the Secretary of State, the Governor and the Lieutenant Governor regarding H.B. 244;
- all public statements made by the Governor, legislators, and public officials related to H.B. 244; and
- all newspaper reports of proceedings of the legislature, including all general commentary and assessments.

4. The Georgia General Assembly and Governor failed to provide measures to ameliorate the racial impact of H.B. 244.

Beyond the legislature's failure to fully investigate the racial impact of H.B. 244, the legislature or other State officials took no measures to mitigate the impact on otherwise eligible voters across Georgia. In particular, the State has not taken the following actions to mitigate the racial impact of the legislation:

- In light of the new requirements, there is no legislation that requires the expansion of DMVS offices or services, and, as evidenced by the illustrative map attached to this letter identifying the locations of DMVS locations, there are substantial geographic gaps which require mitigation.
- There is no provision in H.B. 244 or other legislation in which the General Assembly funded public education on the new photo identification requirements. As a result, unsuspecting citizens who are otherwise eligible to vote absent the photo identification could arrive at the polls and be required to deliver proof of photo identification within two days. As noted above, this problem is likely to be exacerbated among minorities in Georgia because they are less likely to already have in their possession voter identification.
- In light of the new requirements, there is no legislation that requires measures to ensure the reliability of its DMVS system, a system which is currently under scrutiny. For example, a recent report told the story of Atlanta Mayor Shirley

¹⁶ It is important to note that in the 2005 legislative session, the legislature appointed over thirty panels to review matters such as making Georgia more attractive to Hollywood film producers. A study of the racial impact of H.B. 244 was not appointed. See Nancy Badertscher, *When in doubt, do a study – Legislature appoints 30-plus panels*, ATLANTA J.CONST., April 25, 2005.

Franklin receiving a DMVS notice threatening to cancel her drivers license because her Social Security number did not match the one on file with the DMVS.¹⁷ Although high profile, the Mayor's experience is not unique. Such anecdotes illustrate the problematic nature of adding requirements to voting eligibility, especially when such requirements depend on the performance of government agencies that are not adequately administered to cope with the added responsibility.

- Although H.B. 244 addressed the cost of procuring photo identification from the DMVS with respect to indigent individuals, this cost adjustment is inadequate and incomplete. In order to obtain the benefit of a free identification card, one must swear he or she is indigent. The affordability of an identification card itself however is not the only cost (as noted above), the cost associated with obtaining a birth certificate or naturalization papers, travel to the DMVS and time away from a job are all financial costs that must be borne by an individual seeking an identification card. And, as noted above, the demographic information currently available indicates a significant racial disparity in the economic impact of the requirements akin to the burden of a poll tax. It is a burden on the right to vote, and the State has not taken any substantive measures to reduce the burden other than the nominal fee waiver for the identification card itself.

The absence of the mitigation of the disparate racial impact of H.B. 244 is a significant cause for concern. Accordingly, we urge the Department to analyze the data supporting the above assertions. In particular, we recommend the Department investigate:

- all statistical and anecdotal assessments of DMVS performance, customer service, history of complaints, notices relating to revoked licenses, and actual revocations; procedures for revoking licenses and other aspects of the administrative functions of DMVS regarding photo identification matters;
- all government studies, reports and recommendations regarding the same;
- all previously publicized plans and processes with respect to voter education regarding the new voter identification statute;
- all cost related aspects of the new requirements, including statistical and anecdotal assessments of costs relating to documentation, transportation, and excuse of absence from employment, particularly in light of the burdens of such costs in a racial and socio-economic context; and
- statistics related to the racial disparity of individuals possessing birth certificates and copies of naturalization documents.


5. Concluding remarks.

Implementing §§ 24, 25, and 59 of H.B. 244 would retrogressively impact the voting rights of minorities in Georgia. It is racially discriminatory and inconsistent with

¹⁷ Ty Tagami, *Snafu Threatens Mayor's License*, ATLANTA J. CONST., May 18, 2005, at B2.

the substance of the Voting Rights Act. Moreover, Georgia has failed to show that this legislation was enacted without a retrogressive purpose. H.B 244 is vigorously opposed by the American Civil Liberties Union, Common Cause/Georgia, National Voting Rights Institute, NAACP, the AARP Georgia, the League of Women Voters, the Lawyers' Committee for Civil Rights Under Law and other public interest organizations, as well as dozens of religious organizations of all faiths. Accordingly, we submit to you in the strongest possible terms, H.B. 244 should be denied pre-clearance under Section 5 of the Voting Rights Act.

Respectfully submitted,



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cc: Alberto R. Gonzales, United States Attorney General
Governor Sonny Perdue
Georgia Attorney General Thurbert Baker
Georgia Secretary of State Cathy Cox

attachments

**Schedule I
Organizations**

AARP Georgia
American Civil Liberties Union of Georgia
American Civil Liberties Union National Voting Rights Project
American Jewish Committee, Atlanta Chapter
Anti-Defamation League, Southeast Region
Asian Pacific American Legal Center
Atlanta Black-Jewish Coalition
Atlanta Business League
Common Cause/Georgia
Demos: A Network for Ideas & Action
Georgia Alliance of African American Attorneys
Georgia Association of Black Elected Officials
Georgia Association of Latino Elected Officials
Georgia Law Center for the Homeless
Georgia Legislative Black Caucus
Georgia Rural Urban Summit
Lawyers' Committee for Civil Rights Under Law
League of Women Voters of Georgia, Inc.
Mexican American Legal Defense and Educational Fund
National Asian Pacific American Legal Consortium
National Council of Jewish Women Georgia
National Voting Rights Institute
People For the American Way Foundation
Project Vote
Service Employees International Union

ATTACHMENT A

Georgia Senate Minority Report Dated March, 21, 2005

The State Senate
Atlanta, GA 30034

03-22-05 A08:49 IN

March 21 2005
Honorable Frank Eldridge, Jr.
Secretary of the Senate
353 State Capitol
Atlanta, GA 30334

Re: Minority Report

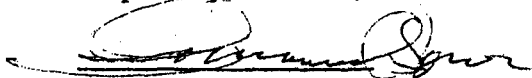
Dear Mr. Eldridge,

Pursuant to Senate Rule 2-1.6 (a), Please accept this Minority Report regarding HB 244 to be included in the Senate Journal. The passage of this measure from the SLOGO Committee is contrary to the public interest. The objections and/or proper amendments are attached to this report.

Senate rules allow for the engrossment of bills after the passage from the Committee preventing the duly elected representatives of over 3.3 million Georgians from representation during open debate on this legislation.

A vote for engrossment and passage from the Committee should be considered as a vote against all amendments attached hereto. All 3 pages of attachments to this letter shall be considered part of this Minority Report.

Respectfully Submitted,



Senator Jones, District 10th

Attachment # 1

The Senate State and Local Government Committee has unfairly dealt with House Bill 244. Few would deny the great debate surrounding this bill, yet the Committee has refused to allow a true debate and discussion on this piece of legislation. A number of my fellow Senators believe that this bill violates the Voting Rights Act, disproportionately affects Hispanic and African American voters, and completely ignores the real issue of Absentee Ballot voter fraud. We must take far more time and consideration on this issue, and allow the input of the general public and experts in the field.

No specific reason was given for this legislation, except for the general accusation of voter fraud. However, not a single shred of evidence was presented showing that a large number of cases of voting fraud exists, nor was any empirical evidence provided to show that photo identification would substantially reduce any cases of voter fraud. A plethora of evidence exists proving that those most affected by a photo identification requirement would be the elderly, the poor, African Americans and Hispanics. Even Harry MacDougald, a Fulton County election official who provided favorable testimony to the bill, admitted that even one voter disenfranchised by this legislation would be too many. Furthermore, he stated that preventing voter disenfranchisement is equally as important as preventing voter fraud. Therefore, a legitimate argument can be made that HB 244 violates the voting rights act, yet the Committee failed to seriously take this argument into account. Indeed, the sponsor of the legislation, Representative Sue Burmeister, testified in the hearing that she did not believe Georgia needs the Voting Rights Act. More empirical and statistical evidence must be considered by this legislative body before this bill goes forward.

Nor did the Committee listen to those affected the most by this legislation: the general public. The NAACP, AARP, League of Women Voters and other mainstream, bi-partisan organizations representing a large and diverse population of Georgia have come out against this legislation. With so many constituents in my district and throughout the state with very strong opinions on this legislation, the Committee and the bill's sponsors should have conducted numerous public hearings throughout the state to allow our citizens to speak on this bill. Moreover, greater time should have been given for the public to hear about and learn about this legislation, so that they could have attended this Committee hearing. In fact, this public hearing began hours after its 5 P.M. start time, and a number of our concerned citizens may have attempted to attend this hearing only to find it rescheduled without any public notice.

The office of the Secretary of State has strongly come out against this bill, finding the requirements of HB 244 far too onerous to a substantial number of citizens. A large number of voter registration offices throughout the state have also come out against this bill, as have quite a few Probate Judges. Representatives from both organizations repeatedly expressed concern that HB 244 offered no funding to alert voters of the change in requirements to vote. This is in sharp contrast to the recent change to electronic voting, where the legislation also provided full funding to repeatedly alert

voters of the change in voting practices. It is rather odd that a change to electronic voting, which could also be explained to each voter when they arrive at their polling location, shall receive funding to notify the public. Yet a substantial change in voting requirements that cannot simply be corrected when a voter arrives at a polling place shall not receive a penny in funds to notify voters. The Committee instead chose to ignore the experience, wisdom and advice provided by the foremost experts in the field of Georgia elections, and instead chose to adopt a bill supported by a partisan bloc.

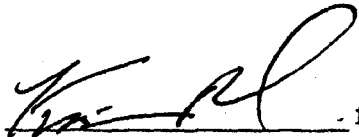
The largest cases of voter fraud involve absentee balloting and voter registration, yet this bill does nothing to correct this. Instead, this bill achieves something I thought impossible when I entered this esteemed chamber: it turns back the clock in Georgia, and begins a new era of Jim Crow in the 21st Century. This bill is illegal, irresponsible and indefensible, and this Committee failed to do its duty in properly examining this bill. I feel that this Committee should have instead suggested to do not pass this bill.

Attachment #2

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The Chairman of the State and Local Government Committee and its members have refused to allow a roll call vote on HB 244. The people of Georgia have the right to know the true feelings of their Senators on this important piece of legislation, and I have included my own recording of the vote. Senator Kasim Reed has verified this to be a fully truthful and accurate record of the vote.

Name	Attended	Yea	Nay
John Wiles	✓		
Jeff Mullis	✓	✓	
Dan Weber	✓	✓	
James Whitehead	✓	✓	
Johnny Grant	✓	✓	
Renee Unterman			
Horacena Tate			
Kasim Reed	✓		✓
Emanuel Jones	✓		✓

I, Senator  find this to be a fully truthful and accurate record of the vote.

ATTACHMENT B

Map of Georgia DMVS Locations

