

SOUTH CAROLINA STATE HEARING

Richland County Council Chambers
Columbia, South Carolina
February 6, 2014

GUEST COMMISSIONERS

Nancy Bloodgood, Partner, Foster Law Firm	James T. McLawhorn, Jr., President and CEO, Columbia Urban League
Duncan Buell, Chair of the Department of Computer Science and Engineering, University of South Carolina	Dr. Lonnie Randolph, Jr., President, South Carolina NAACP
Hon. Ernest A. Finney, Jr., retired Justice, South Carolina Supreme Court	

PANELISTS

Brett Bursey, Executive Director, South Carolina Progressive Network	Maggie Knowles, Protection and Advocacy for Voting Access Coordinator, Protection and Advocacy for People with Disabilities
Gilda Cobb-Hunter, Representative, South Carolina House of Representatives	John Ruoff, Ruoff Group
Carrie Fair, Jasper County Northern Neighborhood Association	Karen Rutherford Susan Smith
James Felder, South Carolina Voter Education Project	Brenda Williams, M.D., The Family Unit Barbara Zia, League of Women Voters of South Carolina

PUBLIC TESTIMONY

Sandra Carr	Jennifer Jenkins, President, Fairfield County NAACP
Susan Dunn, Legal Director, ACLU of South Carolina	Kevin Myles
Nikky Finney	Joe Neal
Karen Irick	Julie Sellers
	Dori Tempio, Richland County

WRITTEN TESTIMONY

Juan E. Gilbert, Ph.D., Human-Centered
Computing Lab, Clemson University (testimony
read by Wanda Eugene, Ph.D)
Matthew Phillips (testimony read by Robert Kopp)

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)

American Civil Liberties Union of South Carolina	National Action Network
The Columbia Urban League, Inc.	Protection & Advocacy for People with Disabilities, Inc.
The Family Unit	South Carolina Progressive Network
League of Women Voters of South Carolina	South Carolina State Conference of the NAACP
NAACP Legal Defense & Educational Fund	

SOUTH CAROLINA STATE HEARING HIGHLIGHTS

On February 14, 2014, the National Commission on Voting Rights held a hearing at the Richmond County Council Chambers in Columbia. Voters, activists, and voting rights advocates shared their experiences of the voting challenges they continue to face. For example, Barbara Zia, who represented the League of Women Voters of South Carolina, noted that during the 2012 Election, South Carolina voters faced the fourth longest wait time in the country. Witnesses also testified about the disproportionate impact of South Carolina's photo ID and misdemeanor/felon disenfranchisement laws on communities of color; expressed concerns about proposed legislation; and spoke about the historical importance of Section 5 of the Voting Rights Act in protecting minority voting rights.

I. Implementation of Photo ID Law

South Carolina residents seeking to obtain a state-provided free photo ID must comply with the South Carolina State Election Commission's, *Attire & Appearance Guidelines*.¹ Brenda Williams, M.D., a founder of The Family Unit, a Sumter-based 501(c)(3), testified that these guidelines disproportionately prevent African-American women from receiving photo IDs, thereby disenfranchising them.

The *Guidelines* prohibit applicants for photo ID's from wearing caps, hats, scarves or other head coverings, except those worn for religious or medical reasons. Even when worn for religious or medical reasons, the *Guidelines* state that a head covering may not obscure the applicant's face. Face veils, stage make-up, disguises, masks or any other article that would obstruct the full face front view or prominent distinguishing facial characteristics, such as tattoos, scars, birth marks, or moles, are also not permitted. The *Guidelines* also state that hair cannot obstruct eyes and facial features. Sunglasses, tinted glasses, non-prescription glasses, and eye patches are also prohibited, except for those worn for medical reasons.

¹ See, *Attire and Appearance Guidelines, South Carolina State Election Commission*. http://www.scvotes.org/2014/05/23/photo_id_attire_appearance_guidelines

According to Williams, these guidelines unfairly prevent African-American women from exercising their right to vote because “African-American women oftentimes adorn ourselves in scarves and turbans. It’s a part of our culture.” She also expressed concerns about the degree of discretion afforded to individuals working at voter registration offices and the DMV, noting “the voter registration office people have the authority to stop and not take your picture if you don’t fit their attire guidelines.”

II. Disenfranchisement of Incarcerated and Formerly Incarcerated South Carolinians

In South Carolina, individuals who are convicted of any felony or a misdemeanor that involves an election law violation cannot vote until the completion of his/her sentence, including the terms of probation and parole.² An individual convicted of a non-election misdemeanor loses the right to vote only for the duration of his/her incarceration.³ According to the ACLU, these disenfranchisement laws disproportionately affect communities of color.⁴ Indeed, although African-Americans only comprise 27 percent of the state’s voting age population, they comprise 64 percent of the state’s disenfranchised individuals.⁵

Brett Bursey, Executive Director of the South Carolina Progressive Network, and Carrie Fair, who testified on behalf of the Jasper County Northern Neighborhood Association, expressed concerns about the manner in which these laws are being implemented. In explaining his concerns, Bursey pointed to a 2008 ACLU survey of South Carolinian election officials.⁶ The survey results included the following:

61 percent of the election officials answered incorrectly when asked about the voting eligibility of individuals with misdemeanor convictions; 43 percent answered incorrectly when asked about the voting eligibility of individuals with out-of-state felony convictions; and 41 percent answered incorrectly when asked about the voting eligibility of individuals with federal felony convictions.⁷

² See, *Felony Disfranchisement in South Carolina*, ACLU of South Carolina, http://www.aclusouthcarolina.org/files/6813/6243/4513/SC_Felony_Disfranchisement_Factsheet.pdf

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ See, *South Carolina County Election Board Survey on Felony & Misdemeanor Disfranchisement*, ACLU, https://www.aclu.org/files/pdfs/votingrights/sc_survey.pdf

⁷ The survey also included other questions. However, these are the three questions that the ACLU identified as “slightly more complicated eligibility questions.”

Even more troubling, the election officials surveyed in Charleston County, which is the second most populous county in the state, incorrectly answered all three questions.⁸ Likewise, the election officials surveyed in Greenville County, which is the most populous county in the state, incorrectly answered when asked about the voting eligibility of individuals with misdemeanor convictions.⁹

III. Senate Bill 227: “South Carolina Voter Citizenship Verification Act”

Ms. Zia and Kevin Myles, the NAACP’s Southeast Regional Field Director, raised concerns about the likely discriminatory impact of Senate Bill 227 (SB 227). SB 227 was introduced during the 2013-2014 legislative session, but it never came up for a vote. SB 227 would have required any individual registering to vote for the first time in South Carolina to provide one of the following forms of identification to prove United States citizenship: (1) Driver’s license number from a South Carolina driver’s license, (2) other photo identification issued by the South Carolina Department of Motor Vehicles, (3) photo identification card issued by another state (subject to some restrictions), (4) birth certificate or certified photocopy of a birth certificate, (5) United States passport or legible photocopy of the pertinent pages, (6) United States naturalization documents or a legible photocopy of the documentation, (7) number of the certificate of naturalization, (8) any document or method of proof of citizenship accepted by the federal Immigration Reform and Control Act of 1986, or (9) Bureau of Indian Affairs card number, tribal treaty card, or tribal enrollment number.

Proof of citizenship laws, like SB 227, disproportionately impact minority, low-income, and elderly voters. As Zia explained, “minority and low income citizens ... are less likely than other voters to have access to [the requisite] forms of identification.” In fact, according to a 2006 study conducted by the Brennan Center, seven percent of United States citizens do not have “ready access to U.S. passports, naturalization papers, or birth certificates.”¹⁰ While the Brennan Center study also found that eight percent of white voting-age citizens did not have a valid government-issued photo ID, it determined that 25 percent of voting-age African Americans did not have one. Likewise, the study found that citizens with annual incomes of less than \$35,000 were half as likely to have a valid government-issued photo ID as compared to citizens with annual incomes of \$35,000 and greater. According to the study, 18 percent of United States citizens 65 years of age or older did not have a valid government-issued photo ID.

⁸ *South Carolina County Election Board Survey on Felony & Misdemeanor Disfranchisement*, *supra*.

⁹ *Id.*

¹⁰ *Citizens Without Proof, a Survey of Americans’ Possession of Documentary Proof of Citizenship and Photo Identification*, Brennan Center for Justice, 2-3 (Nov. 2006).

IV. Importance of Section 5 to Minority Voting Rights

John Ruoff, Ph.D., principal at Ruoff Policy, testified that “Section 5 preclearance requirements have framed nearly every change in voting practice or procedure in [South Carolina] over the past five decades ... the realistic threat of a DOJ [Department of Justice] objection has brought [] jurisdictions to much more reasonable actions.” For example, Ruoff believes that had it not been for the specter of preclearance, the 2012 redistricting plan for Florence County School District 1 would not have included a majority African-American district.¹¹ Ruoff also submitted to the record a law review article that he co-authored, that provides a detailed history of Section 2 and Section 5 in South Carolina between 1982 and 2006.¹²

¹¹ See, *Barr et al v. Florence County Voter Registration & Elections Comm’n*, No. 4:12-cv-01183-RBH (D.S.C. April 25, 2013) (consent stipulation of voluntary dismissal after plan that included a majority African-American district was precleared).

¹² See, *John C. Ruoff & Herbert E. Buhl, Voting Rights in South Carolina: 1982-2006*, 17 S. CAL. REV. L. & SOC. JUST. 643-711 (2008).