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**SENATE JUDICIARY SUB-COMMITTEE ON
CONSTITUTIONAL, CIVIL AND HUMAN RIGHTS**

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Senate Judiciary Sub-Committee on Constitutional, Civil and Human Rights

My name is Bruce Smathers. I was born on October 3, 1943 in Miami, Florida.

It is an honor to appear before Senate Judiciary Sub-Committee on the Constitutional, Civil and Human Rights to express my views on the Florida election law passed by the Florida Legislature and signed by the Governor in 2011, CS/CS/HB1355, (hereinafter referred to as HB 1355).

Let me first state that the opinions I express are my own and are true to the best of my knowledge. While I attempt to identify sources for my comments both by reference in the text and otherwise, I may sometimes fail to fully accomplish this and let me express my apologies to the Committee beforehand, and commit that I will identify those sources, where appropriate at the request of the committee.

The first question I should answer, is why a retired ex-public servant, who served as a state Senator and then as Florida's Secretary of State almost three and a half decades ago, is coming out and speaking out on these new election laws?

The simple answer is that I am offended by what is happening and I cannot sit idly by as the Constitutional and civic right of qualified Americans is eroded by this type of partisan legislation. That it is occurring in my native state, Florida, makes it doubly offensive.

With a family history of public service that goes back at least four generations, I feel the effort of the Florida Legislature and the Governor to tilt the elections for pure partisan purposes by suppressing the registration and voting opportunities of groups likely to vote Democratic is to me, not only deplorable but detestable.

The right to vote for all qualified Americans is a basic Constitutional and civic right. It is the strength of our democratic system. Without it, all of our other treasured rights, whether it is freedom of religion, freedom of speech or freedom of association will eventually evaporate. Our enjoyment of private property rights, freedom from undue government interference and our rights to the due process of the law, all ultimately exist because of the fundamental right of every qualified American citizen to vote.

As a Vietnam veteran, I am acutely aware that over the last century tens of thousands of Americans have died overseas to not only protect our democratic right to vote, but to provide that opportunity to millions of people around the world. Hundreds of American citizens, many of them nameless, have died fighting for those same civil rights within our own states.

We have just finished a war in Iraq in which thousands of our best and brightest died, tens of thousands more have been wounded and between one and two trillion dollars of our national treasure has been expended in an effort to provide the right to vote to the people of Iraq. Yet, after all that sacrifice, our brave men and women who return home, find, that at least in Florida, their state leaders have engaged in an effort to erode that basic right of voting to unknown thousands, and probably tens of thousands of qualified citizens within Florida.

Many of those who bravely served in American forces over-seas were Americans of African-American or Hispanic descent. They return to Florida, to find their state government actively attempting to suppress the registration as well as restrict voting opportunities of members of their own heritage. While the Florida Legislature pays lip service to honoring our military veterans overseas, they make a mockery of this tribute by attempting to suppress registration and voting opportunities of minorities who sons and daughters, husbands and wives, parents and relatives served and sometimes paid the ultimate sacrifice to provide full voting rights in foreign lands.

I am not only offended, but as a former state senator and former Secretary of State I am ultimately ashamed by these actions by our elected representatives and our Governor in Tallahassee.

I also come before you as a native Floridian, claiming birthright as a fourth generation Floridian and a fourth generation public official, although the latter extends beyond Florida.

One great grandfather arrived in this very community, Tampa, over one hundred and thirty five years ago on Christmas Day in 1876, when there were only 700 citizens in this area. One of his accomplishments in this community was to merge two weekly newspapers into the first daily newspaper in the Tampa Bay area, *The Tampa Times*.

While I was born in Miami, Florida, I entered the Florida Legislature as a state senator from Jacksonville Florida in 1972. I subsequently was elected Secretary of State of the State of Florida in 1976. As Secretary of State, I served as Florida's Chief Elections Officer from 1975 until my resignation in 1978.

During my tenure as Secretary of State, we passed a major reform of the Florida Election laws, under the direction of the Director of Elections, the honorable Mary Singleton, the first Afro-American to serve in that position and the first African-American elected to the Florida Legislature from north Florida since Reconstruction.

CS/CS/HB 1355 (referred to as "HB 1355") is the subject of this committee's hearings. In its 88 pages, a vast majority of its provisions have a positive or at least defensible primarily ministerial impact on elections. They have been approved by the U.S. Department of Justice. However, it

is my opinion there are specific provisions in this legislation that reflect the greatest attack on registration and voting opportunity and thus voting rights of qualified citizens in recent memory. As such, I believe the legislation passed by the Florida legislature in 2011 should be referred to as the **“Registration and Voting Suppression Act of 2011”**.

As stated before, as Secretary of State, I was privileged to initiate a major reform of Florida’s election laws in 1977 which received bipartisan support. I bring this to the committee’s attention because several significant differences exist between the origin and passage of our 1977 election law reform and the election law passed in 2011.

Given the limited nature of my presentation, I have incorporated my statements as to the origin and passage of HB 1355 and our 1977 election reform in **Appendix No. 1**.

Because of the method of HB 1355’s origination and passage, I believe that your Committee would be on solid grounds to find that the 2011 act was not a “reform to improve the electoral processes, protect the registrants registration, provide integrity to the electoral process or fight fraud” as claimed by its sponsors.

If the justifications for HB1355 proposed by the Legislature and Governor were true, this bill would have attracted bi-partisan support from both Republicans and Democrats in both chambers, the full support of the Supervisors of Elections and their Association, as well as widespread support among community organizations involved in the electoral process and favorable support from the media statewide. Both Republicans and Democrats, at least on a local level, volunteer organizations and the vast majority of Floridians including the media want to improve the electoral process, want to enhance the integrity of our elections and want to prevent fraud and electoral abuse.

Unfortunately, **HB 1355 was and is seen as a highly partisan attempt to tilt the electoral process in favor of the Republican Party** by suppressing volunteer voter registration efforts and reducing registration and voting opportunities of groups that tend to vote Democratic. This judgment was affirmed by widespread criticism of the bill by practically all of the state’s major newspapers, as well as widespread criticism by non-partisan volunteer groups such as the League of Women Voters and others.

I am limiting my comments to just three provisions of HB 1355:

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| Issue 1 | The reduction of early voting days from 14 days to eight days and the elimination of the Sunday before the Tuesday election as an early voting day. |
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Issue 2 The creation of an overly complex and burdensome system of third party voter registration organizations; the reduction of time to return voting registration forms from 10 days to 48 hours; the recording of the registration by time segments as small as a minute; the imposition of civil penalties for even technical violations of these complex procedures; the mandating of signing oaths by all voter registration volunteers; and the threat of felony charges against voter registration volunteers.

Issue 3 The restriction of the custom of qualified voters from another county registering and voting by voting machines on election day and the requirement of a paper provisional ballot for those voters.

I contacted several Supervisors of Elections, from both Democratic and Republican affiliations. I expressed to them that this was just on a confidential basis, and in light of the positions as elected officials, I would not refer them either by their name or their county. Not all of them wanted to express an opinion. They primarily view themselves as non-partisan administrators of the election laws who do not want to get involved in partisan policy disputes nor argue controversial policy, particularly when it is supported by the Governor and the Secretary of State, who is effectively their administrative leader and boss. Still, the overwhelming majority of them to whom I spoke and were willing to comment, shared with me that they do not support these new controversial provisions and changes to the election law.

However, I would say most importantly,

None of the Supervisors of elections were aware of any widespread or even significant voter fraud in their counties to justify the changes passed by the Florida Legislature.

Issue 1

All favored a fourteen day period early voting day period for the General Election that made the election run smoother and eliminated problems in voting ... One Republican Supervisor of Elections noted that they had just settled a law suit that cost his county \$2million dollars, and that early voting helped avoid such problems by avoiding crowding and extended waits at the polls and providing time to resolve voting disputes before they erupt into lawsuits.

All said that the changes to the early voting procedures would cost them and thus their counties (and thus the taxpayers) more money because among other changes, they would have to hire employees for overtime work and pay them time and a half instead of their regular wages.

None supported eliminating the Sunday before the Tuesday elections as an early voting day.

These supervisors of elections as well as the Florida Association of Supervisors of Elections actually requested more flexibility in location of early voting sites from the Legislature, thus expanding and improving the system of smooth and efficient elections. The Legislature which ignored this request, instead of expanding early voting opportunities, reduced early voting opportunities while increasing the costs of early balloting.

The Florida State Association of Supervisor of Elections opposed this specific change by saying:

“While this may be workable with respect to primary elections, not having a 15 day time frame for the General Election could result in crowding and confusion at early voting sites and on election Day at the precincts. Maintaining 15 days for the General Election is imperative to a smooth General Election in the state.” (my emphasis)

(Note: “FSASE written report (“FSASE Report”) starting “The Florida State Association of Supervisors of Elections has the following objections and concerns with CS/CS/CS SB 2086” dated April 25, 2011)

While the FSASE Report relates to CS/CS/CS SB 2086, this Senate bill was the companion bill to HB 1355 and its provisions were similar if not identical to HB1355.

Issue 2

None voiced support for the most controversial procedures and the penalties enacted for voter registration under provision FS 97.0575 – Third-party voter registration, specifically the reduction of the time to turn a ballot in and from 10 days to 48 hours as well as the imposition of punitive civil fines for inadvertent technical violations of the procedure.

Most importantly, none were aware of widespread fraud or significant fraud in their counties to justify this law and the burden it places on volunteer voter registration efforts. Most were somewhat concerned and confused as to how these laws would be implemented.

The Brennan Center Report states that **“Between 2009 and 2011, there was no controversy in Florida involving voter registration to suggest why the state legislature took up the subject of restricting voter registration drives.”**

Issue 3

None voiced support for the new changes that prohibited voters from other counties from voting by machine on the same day, after proper identification was presented and signing the required oath of eligibility. All that commented felt that the requiring of paper provisional ballots would create a major administrative burden and expense on their offices (and I would add ... the county taxpayers)

None of supervisors of elections were aware of widespread fraud or significant fraud in their counties in registering and voting by machine that would justify this new provision of the law.

The Florida State Association of Supervisors of Elections stated the provision “...will result in tens of thousands of additional provisional ballots ... (which) will significantly delay election results.” Most importantly, relatively to the specious claim that the legislation was necessary to prohibit double voting, the Association stated there were “No reports of widespread abuse or double voting” justifying this radical change from prior practice.

(Note – See FSASE Report above)

In addition to the lack of need for these stringent new voter registration requirements and procedures, the Committee should look to what is the adverse effect on voting, and particularly what the adverse effect on minority voting is going to be.

The Brennan Center reports “In 2008, **2.13 million voters registered in Florida.**” (my emphasis) (BRENNAN CENTER FOR JUSTICE – Voting Law changes in 2012, Brennan Center for Justice at New York University School of Law © 2011 / (“Brennan Report”)) If one broke that figure down by the populations (taken from U.S. Census figures) of the six largest counties that contain over 50% of Florida’s population. While not reflective of the actual figures which I do not have, this pure mathematical estimate of voter registration figures in 2008 in those six counties would be calculated as thus:

Miami – Dade	282,000 registrations
Broward	198,000 registrations
Palm Beach	149,000 registrations
Hillsborough	139,000 registrations
Orange	129,000 registrations
Pinellas	103,000 registrations
Duval	97,000 registrations.

How many of these registrations occurred because of the voter registration efforts of private groups such as the local Republican and Democratic parties, the League of Women voters, La Raza, the NAACP, or teachers or student groups is difficult to estimate. However, even using conservative estimates applied to these mathematical estimates, the suppressing of traditional volunteer voter registration efforts by **HB 1355**, will not only adversely effect, but **potentially eliminate tens of thousands of registrations and thus votes in each of these counties** in the coming elections.

National Census data reflect that Hispanic and African-American voters are approximately twice as likely to register to vote through a volunteer registration drive than white voters, thus showing the disproportional impact that this will have on minority voters.

I believe the Florida Legislature was aware of this massive and disproportionate impact on minorities of suppressing volunteer voter registration drives would cause. Thus, the only conclusion given the lack of widespread double voting and voter fraud, is that the Florida Legislature passed FS. 95.075 to accomplish the suppression of volunteer voting registration drives, and thus suppress minority voting in Florida.

In a phone conversation last year with The Brennan Center, in response to my question, they commented that in reviewing the transcripts of the testimony in the Florida Legislative hearings on HB 1355, they found no credible testimony of claims of fraud that would justify the draconian changes as outlined above to Florida's election laws.

Likewise, I believe your Committee will find that there were no new incidences of widespread fraud or threats of fraud sufficient to justify the draconian change of the election laws passed by the Florida Legislature and signed by the Governor in 2011.

While there will always be partisan cries of electoral fraud, it is important to determine whether these allegations a) **can be documented** or are just uninformed opinions; b) **whether they occurred in Florida** and are thus relevant to this legislation; c) **whether they occurred recently and sufficiently widespread** to warrant this legislation; d) and **whether any allegations of fraud or electoral abuse were transmitted to the Florida Legislature in time in 2011 to justify these onerous provisions of HB 1355.**

I would add that in 2008, approximately **eight million three hundred thousand** Floridians voted in the Presidential elections. While among 8.3 million voters, there will always be some singular incidences of registration or voter fraud (I believe there are public reports of such incidences in Seminole and Orange County). However, I would suggest that among **8.3 million votes**, any claims of widespread fraud or abuse should meet a verifiable number of incidences to be sufficiently significant to justify these draconian and adverse changes to our election laws.

I would recommend to the Senate Committee to conduct a confidential survey of all 67 county Supervisors of Elections as their opinions and concerns relative the controversial provisions of this legislation. I would also recommend surveying the 16 state attorneys to determine incidences of electoral fraud or abuse reported to their districts by supervisors of elections or others and what was the disposition of those cases.

If there are not verifiable incidences of widespread fraud or even just significant problems, any claims that these controversial provisions were necessary to prevent fraud, protect the registrants application or increase the integrity of the elections would not only be highly inaccurate and misleading, but also political hypocrisy at its worst.

PERSONAL OPINION:

Issue 1

The reduction of early voting days from 14 days to eight days and the elimination of the Sunday before the Tuesday election adversely affects those citizens who utilize early voting for its convenience, as well as those who need time and assistance to get to the polls to vote. These groups includes African-American and Hispanic citizens as well as others who need assistance including our poor and our elderly. See my comments in **Appendix No. 2**

It is my opinion that these changes regarding early voting were a deliberate, intentional act of the Florida Legislature to suppress minority voting in the State of Florida and that this represents the Florida Legislature returning in 2011 to the disgraceful and detestable Jim Crow tactics to lower minority voting of the last century. I have included my letter to the Florida Times Union as **Appendix No. 3**.

Issue 2

F.S. 97.057 - Third-party voter registration – This obnoxious provision’s practical effect is to suppress voluntary voter registration efforts throughout Florida which would disproportionately reduce minority voting and others who benefit from volunteer voter registration efforts. **See Appendix No. 4** for my reasoning.

The alleged benefits of these changes are specious. The practical adverse chilling affects on volunteer voter registration efforts and thus on voting, and particularly minority voting are blatantly obvious and clear to all objective observers.

I believe that the arguments supporting this provision are not based on verifiable documentation.

In partial reference to this section on Third-party voter registration, League of Women Voter’s President Deirder Macnab, has stated

“Overall, it creates a mountain of risk and red tape that has proved insurmountable to grass roots groups like the League of Women Voters that has thousands of volunteers willing to work five hours on weekends to register voters.”

The committee is aware of two teachers encouraging civic participation of their students by involving them in voter registration efforts and having inadvertently violated the law, became potential subjects of \$1,000 fines. In my conversations with Supervisor of elections, many other teachers attempting to encourage their students to become involved in civic affairs and registering to vote have now run afoul of these provisions.

There is not enough time to analyze this mountain of risk and red tape, but let's look at just a few issues.

Besides, the unjustified reducing the time to return registration forms from 10 days to 48 hours, the state has also mandated the volunteer to print on the registration form not only the month and day, they must also show the hour and the exact minute that the registration form is filled out.

How absurd and picayune the Florida Legislature has become.

What happens if the exact minute the form was filled out is not correct? Does that affect the validity of the registration? I hope not, but there are no written guidelines explaining this.

And even if everything is perfect, and the individual volunteer/organization turning his or her collected voter registration forms into the supervisor of elections has a flat tire or a problem with their car, delaying them one minute past the deadline, they are now technically subject to fines up to \$1,000.

What Florida citizen would like to participate in voter registration drives on their own to improve democracy and make their state and their country better, when in these economic times, whether they be middle class, from lower income families, or from poor urban neighborhoods, and would dare subject themselves, their parents, or their family to economic fines totaling up to \$1,000 because of basically minor or innocent violations of absurdly complex and technical procedures? What volunteer third party organization operating in multiple counties want to risk up to \$1,000 fines per county for inadvertent mistakes.

No wonder the League of Women Voters has stopped registering voters. No wonder traditional volunteer efforts at voter registration in Florida have come to a standstill.

But the Florida Legislature's efforts to suppress volunteer voter registration efforts do not stop with just new bureaucratic regulations and punitive civil penalties.

Additionally the Florida Legislature has mandated that every voter registration agent and volunteer must sign Sworn Statement **DS-DE 120** (06/2011) See **Appendix No. 5**.

This form outlines how a voter registration volunteer, if they violate Florida law, will be subject to third degree felonies entailing up to five years in prison and up to five thousand dollars in fines.

Unfortunately, this sworn statement is the least informative, but most intimidating state document that I have seen. As an attorney, a former assistant State Attorney, and as former Chief Elections officer this form would intimidate me. One Supervisor of Elections stated flatly that they would not sign it. Think of the chilling effect on a volunteer who is not an attorney, or

someone who does not have a college education, or actually, any citizen who would like to improve our democracy by engaging in voter registration..

In my prepared remarks in **Appendix No. 5A**, I have outlined this intimidating language of the sworn statement through its emphasis to the volunteer of third degree penalties and prison sentences up to five years. I have also pointed out how even an innocent technical violation by the volunteer could lead to a technical third degree felony violation.

I have even pointed out that **the Sworn Statement itself misstates Florida criminal electoral law. If the State of Florida does not understand the law, how can any Floridian who is not an attorney understand Florida's new election laws with its bureaucratic technicalities and punitive civil fines and third degree felonies?**

Instead of encouraging our students, teachers and average citizens to become involved in our electoral process by participating in voter registration drives, the message of the Florida Legislature is loud and clear to all voter registration volunteer. Voter registration is not worth the risk of the potential fines or criminal penalties... **-WE DO NOT WANT YOU TO GET INVOLVED!**

The League of Women Voters after 72 years of bi-partisan registration certainly got the message as did La Raza, as well as the Florida's two teachers Dawn Quarles and Jill Cicciarelli. Now many others around are our state receiving the same message.

The reality is that the Florida Legislature creation of **FS. 97.0575** was not to improve the integrity of elections or protect the sanctity of the ballot, but in **a blatant effort to suppress traditional voluntary voter registration efforts** by creating an unwieldy, complex, possibly unenforceable and in parts unintelligible structure with punitive civil fines as well as serious criminal penalties for voter registration volunteers and their organizations.

The suppression of volunteer voter registration drives is directly intended to suppress minority as other groups as voting as well outlined above.

The suppression of volunteer voter registration efforts to reduce minority voting is foreign to the bipartisan efforts of both parties, Democrats and Republicans at a local level, as well as supervisors of elections and other citizens to expand voter participation of qualified voters, encourage voter participation of all qualified electors and strengthening our democracy.

This provision passed by the Florida Legislature and signed by the Governor is an aberration from Florida's history of progress in expanding electoral participation that should be an embarrassment to the Legislature and the Governor.

Issue 3

The final act of the Florida Legislature in diminishing the voting opportunities that I will comment on is contained in their Amendments to F.S. 101.045.

These changes restrict the previously existing opportunity of people who have moved to a new county to register and vote in their new county on the day of the election when their legal address on their identification bears the address of the county where they used to live.

Instead of being able to being able to vote quickly and efficiently on a voting machine, they will now be required to vote by a paper provisional ballot. I have provided more explanation in **Appendix No. 6.**

This radical change in long standing Florida law allegedly is necessary according to the proponents of the legislation to avoid voter fraud and abuses, by an elector voting in one county, and then traveling to another county to vote, or the action being called “double voting”.

Let me express to the Committee that this change in the law was not necessary, and there was no substantiation of fraud or double voting in Florida justifying this change in the law.

I state this because none of the Supervisors of Elections that I have talked to voiced support for this legislation as written and **all** stated that they are not aware of the fraud or abuse or double voting in their county that the proponents of the Legislation claim is such a problem.

As I stated before, the **Florida State Association of Supervisors of Elections** representing all 67 county Supervisors of Elections stated there were, and I quote again.

“No reports of widespread abuses or double voting”

(NOTE. See FSASE Report above)

In addition to the FSASE statement, there is a common sense reason there is not the widespread threat of double voting which the public which has not voted this way does not understand. Under the old law, besides providing proof of your identity through government documents and other measures, the qualified citizen wanting to vote in a new county must also sign a sworn oath stating

- a. They were registered to vote in their old county
- b. That they have not voted in that county
- c. That they now reside in their new county
- d. That there are eligible vote in their new county
- e. That they are also otherwise able to vote.

What this committee is aware of, to make a false declaration on a state document on any of these five statements is a third degree felony subjecting the individual to five years in prison and a \$5,000 fine.

What individual, or may I say imbecile , after presenting sufficient documentation to identify who they are, are then going to sign a document committing a third degree felony for the purpose of casting an invalid vote? And the state felony is in addition to similar felony provisions of Federal law for fraudulently voting in a Federal election.

To claim there is a widespread threat of double voting fraud justifying changing the law, is as idiotic as believing that there is a widespread threat of bank robbers going around and presenting their photo identification to the bank teller and then signing their name on an oath to verify their identification, before they attempt to rob the bank.

Common sense says this is not going to happen, and the supervisors of elections understand this. Only the Florida Legislature and the Governor claim that there is a threat.

The Florida Legislature and the Governor are not idiots or imbeciles. They know there is not threat of widespread abuse or double voting as they claim. They know that this legislative change has nothing to do with preserving the integrity of our elections. They also, know that it will adversely affect the participation in the electoral process of students and minorities, and others who traditional lean Democratic, because that is the fundamental purpose of these provisions.

While I have attempted to outline the individual affects of each provision, the Committee should look at the collective impact of these provisions. I believe the Committee will recognize the collect negative impact on these groups, minorities, students, poor and others needing assistance in registering and voting to be significant, particularly in light of the lack of any documented evidence of fraud or abuse to justify these electoral changes.

Finally, the Brennan Center Report reviews the national effort during 2011 when HB 1355 was passed. They have identified 37 states in which legislation that could be termed restrictive were introduced, and thirteen states, one of which is Florida, such legislation was passed.

Courts have long held that specific findings of discrimination can be established through patterns of conduct, laws and timing which result in discrimination. I believe the Committee will find, and I will paraphrase former Congressman Andrew Young, “a deliberate and systematic effort” to suppress voter registration and voter participation of minorities and others likely to vote Democratic.

In light of all of these factors, I believe that this Committee should come to the conclusion that HB 1355, as passed by the Florida Legislature and signed by the Governor, is designed to suppress voter registration and voter participation of groups that tend to vote Democratic, which specifically include Afro-American and Hispanic minorities, as well as the elderly, the poor, students and others that need assistance in registering and voting.

I stated at the beginning that I view HB 1355 that suppresses the opportunity and thus the right of minorities and others to register and vote, as an attack on the sacred right of every qualified citizen of our state to vote, regardless of their race, the socio-economic conditions or the political beliefs or party. As such, it is an attack on the Constitutional and civil rights that are most dear to every American and fundamental to all other rights we enjoy as citizens.

To actively seek to suppress voter registration and voting rights for any group, for whatever reason, is a betrayal to the most precious American principles, and a betrayal of every American who has served his country in the military. This is not only a deplorable act, but also a detestable act that brings shame on our Legislature, our Governor, and our state ... including those of us who believe that public service is to serve the people of our state, and not to ourselves or our party... When basic civil rights such as voting are prostituted for partisan advantage, eroding the highest of principals enshrined in our Constitution. They are not just eroding civil rights of others, but undermining the basic principles of our government, our democracy and country.

Appendices

The attachments referenced below are intended to supplement this statement. They will be made part of the hearing record and are on file with the Subcommittee.

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| Appendix 1 | An comparison of the origin and passage of HB 1355 and election reform Florida Legislature legislation enacted into law in 1977. |
| Appendix 2 | Comments on the reduction of early voting days and the elimination of the Sunday before the Tuesday election as an early voting day. |
| Appendix 3 | View Point letter posted by The Florida Times Union on December 11, 2011 by Bruce A. Smathers. |
| Appendix 4 | Comments on Florida Statutes 97.0575. |
| Appendix 5 | DS – DE 120 , “THIRD-PARTY VOTER REGISTRATION ORANGIZATION REGISTRATION AGENT’S SWORN STATEMENT - available on the Florida, Secretary of State, Division of Elections website under Third-Party Registration. |
| Appendix 5A | Comments on DS – DE 120. |
| Appendix 6 | Comments on Florida Statutes 101.045. |

APPENDIX No. 1

It is my opinion, the origination and thus the intent of our effort to reform Florida's election laws in 1977 differed significantly from the origination and intent of the passage of HB 1355 in 2011.

First, the impetus of our election reform originated in the Secretary of State's Office through the Division of Elections. Our intent was to improve and update our election laws after more than a decade without any major reforms.

This is complete contrast to the HB 1355, which according to newspaper reports, neither the Secretary of State nor his Division of Elections initially requested or initiated. The 2011 changes to the election law apparently originated exclusively from the Republican Legislature and its leadership in both chambers.

Furthermore, it has been widely reported in the press that a single, highly partisan body, the American Legislative Exchange Council (ALEC), a highly conservative and partisan group, supplied the impetus to similar electoral changes not just in Florida, but in at least twelve other states.

In 1977, our efforts of election reform sought not only comments by Florida legislators from both parties, but most importantly from local supervisors of election who under the Florida Constitution are directly responsible for the administration of the election laws in their local communities and counties. Each of Florida's 67 counties has its own Supervisor of Election, 66 who are directly elected and one of which is select by their county manager.

As local Supervisor of Elections, each of them represent the elected official most intimately aware of the administration and enforcement of Florida election laws within their own counties. Their responsibilities include the smooth and efficient administration of the election laws as well as reporting any problems or incidences of fraud or abuse in the electoral process. They view themselves as nonpartisan administrators and not partisan policy officials. It is through their statewide body, The Florida Association of Supervisors of Elections or FSASE that local Supervisor of Elections experiences and recommendations from a local elections are gathered and then transmitted to the Florida Legislature.

It is to these constitutionally elected and appointed local officials and their association, that the Secretary of State and his Director of the Division of Elections, as well as Florida Legislatures, must, or should I rephrase, they should seek direction and advice when election laws are to be amended either to improve their administration or to combat fraud.

APPENDIX No. 1

Unfortunately, in 2011, the Florida Legislature introduced specific major changes to the election laws apparently without prior input from the Supervisors of Elections or their Association, the Florida State Association of Supervisors of Elections (FSASE).

In other words, neither the Supervisors of Elections nor their Association requested or initiated HB 1355 any of the controversial provisions to the election laws this Committee is reviewing. In fact, some supervisors have stated that neither the Supervisors of Elections nor their Association supported these most controversial provisions.

This lack of support by the Supervisors of Elections or their Association of the most obnoxious provisions was based in part in appropriate deference to the political process in which "policy" properly rests with the legislative branch of government. Because of their positions, most want to avoid policy issues and debates. However, what limited official response in writing from their association exists was negative and their recommendations were primarily ignored.

Based on an official transmission by FSASE to the Florida Legislature of April 25, 2011, they commented that certain new recommendations and procedures, would "interfere and disrupt voting and election administration of the general elections"; would cause significant "delays at the polls"; "could result in significant crowding and confusion at early voting sites and on Election day"; disrupt the smooth administration of "the General Election in the state"; and most importantly as related to one specific proposal the Association commented, "there are no reports of widespread abuse or double voting" to justify the proposed change.

While these official FSASE comments were directed at a different bill (CS/CS/CS/SB 2086), this bill was a companion bill to the house version, HB 1355 that passed, and the provisions of the bill commented on were similar if not identical to HB 1355.

I would also like to comment at this point that my experience with the Supervisors of Elections as Secretary of State, and in my conversations with them since, that the overwhelming majority, both Republican and Democrat backgrounds, have been not only bipartisan and fair in the administration of elections within their counties, but they also have been the leaders in expanding voter registration and voter participation in their respective counties.

The Florida Legislature does not have written transcripts of the committee hearings on HB 1355. Therefore, Brennan Center transcribed all of the oral tapes of all of the committee hearings. The Brennan Center represented to me that there were no reports at these hearings of verifiable electoral fraud or abuse sufficient to justify the imposition by the Florida Legislature of the controversial provisions about which this Committee is concerned.

APPENDIX No. 1

As contrasted to our Legislative Reform in 1977, where we actively sought and received input from legislators of both parties, and actively sought and received input from Supervisors of Elections and groups involved in registration and elections, both Democratic, Republican and Independent, **the 2011 election bill was totally partisan in its origination and its passage**, where recommendations from the Democratic minority as well as respected voter registration groups, such as the League of Women Voters, were ignored.

The vast majority of all citizens and their elected officials want to see expansion of the electoral process to all qualified citizens, they want to see efficient and smoothly administered elections, they want to protect the integrity of the ballot, and they want to prevent fraud.

If indeed this had been the purpose of HB 1355, the bill would have received bipartisan support by representatives and senators in both chambers, the bipartisan support of all volunteer and other groups involved in the electoral process, as well as widespread support in the press and media.

This did not occur. In fact, the exact opposite occurred. Practically every major newspaper in the state criticized the bill, and every bi-partisan and non-partisan groups opposed the legislation. Additionally, at the legislative hearings, members of the minority party and other involved groups predicted that the new election procedures would suppress voluntary voter registration efforts throughout the state. Specifically they warned that the bill would severely impact the registration of new minority voters, that it would adversely affect full participation in the electoral process of minority voters, that students' voice through the elections would be adversely impacted, that many others who needed assistance as the poor would be adversely impacted, and that these reforms would adversely impact the smooth administration of the elections. Instead of making the elections more efficient and saving the taxpayers money, HB 1355 would complicate the administration of elections making them more inefficient and cost the taxpayers of Florida more money.

As contrasted with our election reform, in which we received strong bipartisan support from both chambers (I believe our reform passed both chambers with overwhelming if not unanimous support), the present legislation, HB 1355 passed on a highly partisan vote not only through most committees but also through both chambers.

APPENDIX No. 2

The elimination of early voting on the Sunday before the Tuesday election terminates what is referred to as “Souls to the Polls”, which involves transporting voters primarily in Black and Hispanic communities to the polls to cast their ballots.

In Florida’s 2008 election, approximately 33.2 percent of voters that Sunday were African-American – double the percent of African-Americans voting early that year. The statistics of Hispanic voters that Sunday are comparable.

The Palm Beach Post stated that “[more] than half of the black voters [in the 2008 election] voted before Election Day and many of them went on [the] final Sunday.

The Florida Legislature knew the importance of early voting and the Sunday before the Tuesday election to minority citizens.

The Florida Legislature passed this legislation reducing early voting days over the objection of the Florida State Association of Supervisor of Elections, and in disregard to their warning that 15 early voting days were imperative to a smooth General Election of the State.

The comments of FSASE regarding the shortening of early voting days from 14 to 8 days, are as follows.

“While this may be workable with respect to primary elections, not having a 15 day time frame for the General Election could result in crowding and confusion at early voting sites and on election Day at the precincts. Maintaining 15 days for the General Election is imperative to a smooth General Election in the state.”

The reduction of early voting days and the elimination of the Sunday before the Tuesday election as an early voting day for the General Election was passed by the Florida Legislature and signed into law by the Governor. I believe it is a direct, intentional effort to reduce minority voting in our primaries, and as such an attack on minority voting that is a disgrace to the Legislature and the Governor as well as to the people of this state whom they allegedly represent.

New voting restrictions recall days of Jim Crow

Posted: December 11, 2011 - 12:04am | Updated: December 11, 2011 - 3:12am

Bruce A. Smathers was a member of the Florida state Senate before his election as secretary of state of Florida, during which service he reformed state election law. He may be contacted at sec.state78@gmail.com

A critical tenet of our American democracy is every citizen's right to vote. It's a right in which we take great pride, though it took more than a century of struggles before all citizens could cast a ballot.

Today, the progress from this struggle is being blatantly eroded in Florida and other states.

This Jim Crow suppression of voter registration and minority voting comes in the form of legislation passed earlier this year by our state lawmakers and signed into the books by Gov. Rick Scott.

The justifications for reducing early voting days and subjecting volunteer voter registration drives to harsh penalties are reminiscent of the arguments for the Jim Crow-like laws of long ago: "Protect the integrity of the ballot" ... "fight fraud" ... "make the vote meaningful" ... "save money."

The tools of yore — poll taxes, literacy tests, white (only) primaries — yielded the same results that this new legislation will: suppression of disadvantaged and minority citizens' opportunity, ability and right to vote in Florida. How?

First, the law reduces the "early voting" period from 14 days to eight, adversely affecting citizens who need more time and assistance to get to the polls or vote.

These include our handicapped, our wounded veterans, our elderly and many African-American and Hispanic citizens.

Second, it cancels early voting on the Sunday before Tuesday's election. That terminates "Souls to the Polls" transporting voters in primarily black communities to polls that Sunday.

In Florida's 2008 election, approximately 33.2 percent of voters that Sunday were African-American — double the percent of African-Americans voting early that year. The statistics on Hispanic voters that Sunday are comparable.

Third, the Florida Legislature with this new law complicated registration procedures, increased labor and expense for Supervisors of Election, and made minor technical violations subject to large fines.

The law compresses the time for a volunteer to turn in new voter applications from 10 days to just 48 hours — or, the volunteer suffers punitive civil fines and penalties up to \$1000!

Recently two Florida teachers, attempting to engage their high school students in civic matters, including pre-registering them to vote, ran afoul of this provision.

APPENDIX No. 3

Census figures reveal that Hispanic and African-American voters are twice as likely as white voters to register through volunteer organizations.

The Legislature is aware of this disparity, thus deliberately intended to suppress volunteer voter registration. They used this a century ago, and it worked, so they're returning to such Jim Crow tactics. They have throttled voter registration efforts of Florida's League of Women Voters, teachers, students and others.

The 2008 and 2010 elections in Florida produced no false voter registration or evidence of fraud to justify such changes. The Association of Supervisors of Elections, all locally elected county officials responsible for voter registration did not request this new law. They did not support these provisions.

Many of my Republican friends were shocked at the passage of this law. They can't comprehend why the Legislature enacted a law that will suppress the ability of churches, volunteer and charitable groups to help disadvantaged minority and aged citizens exercise their Constitutional right to register and vote.

The League of Women Voters, which has conducted bipartisan voter registration drives for 72 years, has terminated its voter registration efforts in Florida because of this law.

The president of the League characterized the proposed law last spring as "a return to Jim Crow-style tactics to suppress voter registration and participation."

As former secretary of state and chief elections officer of Florida, I agree.

These Jim Crow tactics speak for themselves.

Bruce A, Smathers was a member of the Florida state Senate before his election as secretary of state of Florida, during which service he reformed state election law. He may be contacted at sec.state78@gmail.com

APPENDIX No. 4

Why would anyone want to suppress voluntary voter registration? It is the epitome of citizen involvement in the electoral process of which all Americans from whatever party or allegiance can be justly proud. It is the essence of what we need to do to improve participation of all our citizens and thus our Democratic process.

Furthermore, voting registration rates in America are lower than practically every developed democracy in the world, even though our democracy is older than any other democracy in the world. We should be encouraging rather than suppressing voter registration!

Why suppress voluntary voter registration efforts? The answer is easy.

Census figures reveal that Hispanic and African-American voters are twice as likely as white voters to register through volunteer organizations. In Florida, Hispanic, and in this instance I would emphasize the growing number of new Puerto Ricans citizens in central Florida, and African-Americans statewide are perceived to vote more heavily Democratic than Republican.

The Florida Legislature and the Governor were aware that minority voters disproportionately relying on volunteer voter registration. I believe that they deliberately and intentionally enacted this legislation which patently suppresses volunteer voter registration efforts. Am I exaggerating ?

The League of Women Voters after 72 years of bipartisan efforts in Florida to increase voter registration and thus voter participation has been forced to cease their activities in Florida.

La Raza which focuses on Hispanic voter registration has also ceased their activities in Florida.

These organizations along with the NAACP and the Rock the Vote, a student oriented voter registration organization, have filed a law suit under the Voter Registration contesting these discriminatory laws and actions.

This section is consistent with other provisions of this law, such as the reduction of early voting days, to suppress voter registration suppression ultimately suppresses voter participation of minorities as well as students and other groups that may lean Democratic.

The legislation mandates the reduction of time to return voter registration forms from 10 days to 48 hours and imposes bureaucratic hurdles to the obtaining of registration forms and even obtaining volunteers to participate in these registration drives. Voter registration forms are required to have the hour and exact minute a registrant completes the registration form. Punitive civil fines for all third party registration organizations, whether they be individuals or multi-county totaling up to \$1,000 exist for even inadvertent violations. These threats of punitive civil fines coupled with possible criminal felony violations reflect the Florida

APPENDIX No. 4

Legislature's efforts to suppress volunteer registration groups such as the League of Women voters.

While speciously alleging that this is to insure the efficient and orderly return of voting registration applications to protect the registrant, I am unaware of any reports of credible evidence that there was a problem in this area, much less of any problems on a numerical basis that would offset the obvious reduction of voter registration efforts.

As reported in my remarks, neither the Brennan Center nor the Florida State Association of Supervisor of Elections have reported widespread voter registration fraud to justify this provision.

The insult to this state and our democracy is they have already been successful.

My statement indicates the potential for tens of thousands of unregistered qualified voters who could be registered by volunteer voter registration drives such as the League of Women voters and La Raza will not be registered.

Since the new law dealing with Third-party voter registration became effective last year, for over seven months traditional volunteer voter registration drives have come to a practical standstill.

Even if the Federal courts rule this law illegal, or the Florida Legislature amends the law to permit the activities of volunteer voter registration groups to resume as they have in the past, irretrievable damage will have already occurred during the possibly up to 12 months time during which Tallahassee has suppressed voter registration under these new provisions.

In registration efforts, time is critical the Florida Legislature and Governor are succeeding in reducing the opportunity for volunteer voter registration drives, even if the law is repealed.

It is to the shame of the Florida Legislature and the Governor, that tens of thousands of qualified citizens will not be registered and thereby not participate by voting in our state and Federal elections.

In contrast to the disgraceful conduct in Tallahassee, at a county, and municipal and community level the great majority of Floridians have welcomed greater voter registration efforts and many have participated in these efforts. I specifically want to include as leaders in the effort to expand voter registration the local Supervisors of Elections of both parties; both the local Democrats and Republicans as well as groups such as the League of Women Voters, La Raza, Rock the Vote and myriads of other groups who believe America's democracy works best with an educated, informed and registered electorate.

APPENDIX No. 5

Please insert DS – DE 120 , “THIRD-PARTY VOTER REGISTRATION ORANGIZATION REGISTRATION
AGENT’S SWORN STATEMENT - available on the Florida, Secretary of State, Division of Elections website
under Third Party Registration

APPENDIX No. 5A

Permit me to comment in detail on **DS-DE 120**, the **Sworn Oath**, legislatively mandated to be signed by every voter registration agent/volunteer, stating they will obey the registration laws. It outlines a multitude of criminal violations which include third degree felony penalties.

As an attorney, a former Assistant State Attorney and as former Secretary of State and Chief Elections Officer this Sworn Statement is intimidating to me.

When my son was in high school, he participated in voter registration drives Under this new law, I would be hesitant to involve him in voter registration.

I doubt that most college educated adults, including the press members who are covering this hearing could understand the complexities of this new law, or be eager to risks the civil fines and third degree felonies the state is so manifestly threatening you with, much less for you to encourage any teenage children to participate in a voter registration drive.

If this is language unintelligible or intimidating to you, can you imagine what a young person or adult with just a high school education from an economically deprived neighborhood, who might even speak Spanish as a first language, might feel about swearing that they know and will obey all state laws and rules regarding voter registration, and then become involved in voter registration in their neighborhoods and risk up to thousand dollar fines (which would economically ruin themselves of their families) or subject themselves to a third degree felony (which would ruin their lives).

The Florida Legislature does not want to get Florida volunteers involved in voter registration. However, unfortunately, such is the state of Law in Florida today.

Specifically, the Sworn Oath creates many problems.

In the Sworn Statement, the volunteer first swears that they will **obey all state law and rules** regarding the registration of voters. While this is seemingly appropriate, in order to swear that you will "obey" all state laws and rules regarding the registration of voters, **you have to know what are "all the state law and rules" are before you can swear to obey them.**

Unfortunately, after intimidating any voter registration volunteer with lists of third degree felonies –

The Florida Legislature did not mandate an Third-party Voter Registration Manuel which explains all of the laws and rules for voter registration to insure that a voter registration agent/volunteer understands these voter registration laws and rules so they can effectively and safely register voters and avoid violating Florida laws and criminal statutes.

APPENDIX No. 5A

So, the State of Florida's tells the citizen volunteer, if you want to register voters, you had better bring an attorney with you, (if you can afford it). WHY?

Because the *next* sentence in the Sworn Statement is "

"I understand the penalties for false registration may include a term of imprisonment of up to five years and a fine of up to \$5,000 ..."

To further let a volunteer know the legal dangers they face if they want to register voters and improve our democracy... the *next* sentence states .

"Subsequent convictions may result in greater penalties"

Does this mean if the volunteer innocently turns in twenty false registrations, and is convicted, they may be considered subsequent convictions? Of course not. Attorneys know that this is not the law ... but what does this gratuitous comment mean to the average citizen who is not an attorney ... And why did they insert extra-warning for a citizen who just wants to volunteer to help his or her community?

To explain what they are talking about, the very *next* sentence reads...

"False registration offenses include, but are not limited to, offenses constituting a felony of the third degree," [that's highly informative] ... "such as false swearing or submission of false voter registration, and giving anything of value that is redeemable in cash to any person in consideration of that person becoming a registered voter or altering a voter registration application of another person."

First of all, this information regarding FS 104.012, was not mandated by the Florida Legislature and **DS-DE 120** mentions only part of the felony violations enumerated by this section. What's further amazing is that in spite of a legislative mandate to list the criminal penalties for "false registration", the legislature did not mandate listing the civil fines for turning in a registration form late which could total up to \$1,000, the most likely violations. May I say for the 99% of us, potential fines up to \$1,000 are important to know.

Unfortunately, if a single voter registration volunteer/agent/organization, reads and signs this form provided by the state, they may believe they have an understanding of the Florida election law violations, but they really do not, because oath makes no mention of the most likely violations under Florida's new law. And as mentioned before, the Legislature, while mandating this sworn statement, failed to mandate and Voter Registration Manual to tell the volunteer how to avoid these criminal penalties.

APPENDIX No. 5A

As an average volunteer, I still have no idea what “false registration” or “submission of false voter registration information” really means..

The way this Sworn Statement is written, a volunteer would believe that any false voter information on the registration form, even if they do not know the information given to them by the person they are trying to register is false, would constitute a crime. Thus, if a volunteer innocently submits that false information, they would be subject to up five years in prison!

And under this scenario created by the Sworn Statement, if any volunteer innocently submits 20 voter registration forms which are “false” according to the Sworn Statement, he or she might be subject to twenty felony violations each with up to 5 years, or possibly totaling 100 years or life imprisonment !!!!!!!.

Would any citizen in this court room or in Florida in their right mind submit a voter registration form, much less multitude of forms in Florida?

What is just as disturbing as the complexity of the laws and rules which might trigger civil fines and felony crimes, it the fact that Florida’s document that every voter registration volunteer is required by law to sign, inaccurately and egregiously misstates what are the criminal laws dealing with Florida elections!

How can any volunteer, regardless of their education, be expected to know the election laws and rules of the State of Florida when apparently the State of Florida Does Not Even Know their own Election Laws?

First this state issued document states.

“I understand the penalties for false registration may include a term of imprisonment up to 5 years and a fine up to \$5,000, pursuant to sections 775.082, 775.083 and 775.084, Florida Statutes.”

What the sworn statement does NOT say is that for false registration to be a felony, there must be criminal intent. An unintentional or accidental false registration is not a felony.

Furthermore, false registration actually does not relate to the voter registration agent or volunteer, but as a crime relates only to the elector who is registering to vote and who makes the false registration. Thus the statement mixes, without explanation to the reader, actions by registration applicant and the voter registration agent/ volunteer.

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Moreover, as it relates to a voter registration agent, under **Florida Statutes Section 104.011**, to **commit a crime that would subject a person to a third degree felony, the individual submitting false voter registration information must do so “willfully”**, which for non-lawyers means with knowledge that it contains false information.

Thus, **criminal intent is also necessary to create a felony under FS 104.11.**

This critical element of criminal intent to submit false information, is not mentioned in this state published **Sworn Statement**, which just reads “submitting false voter registration (willfully, unwillingly or innocently) constitutes a felony.

Likewise as to **F.S. 104.012(4)** , “altering a voter registration application of another person” is **not a felony** if it is done with “**the other persons knowledge and consent**”. The Sworn Statement does not include this critical phrase, thus stating that “altering a voter registration application of another person (with or without their knowledge and consent) is a third degree felony.

By not including the explicit critical provisions of Florida criminal statutes (F.S. 104.012(4) in this formal oath, the State of Florida misstates Florida Law and creates a multitude of scenarios where a non-attorney volunteer might feel they would innocently violate criminal statute by actually lawful action under Florida laws.

Again, how can a Florida citizen who wants to be a good citizen and help their state by engaging in volunteer voter registration expect to know the elections laws of the State of Florida, when the State of Florida egregiously misstates Florida law in this mandated sworn statement the volunteer must sign?

Let me create possible scenarios that would face any voter registration volunteer under the law.

Remember a voter registration volunteer is now required to place the hour and minute on the voter registration form, which notation becomes an official integral part of the registration form under Florida law, an essential element to trigger fines up to \$1,000 for violations,

An individual volunteer operating by themselves places the exact time on the registration form as required by law on a Friday morning, and before returning to the Supervisor of Election on Sunday morning, suddenly discovers that their watch was five minutes slow! What does the volunteer do to avoid committing a third degree felony and risk going to prison?

APPENDIX No. 5A

If the volunteer changes the signed registration form to correct the mistake, are they, willfully “altering a voter registration application of another person, without[their] knowledge and consent” as the criminal code (see F.S. 104.012 (4)) reads? ... OR, if they turn in the registration form with the incorrect time ... are they willfully “submitting false voter registration information” (see F.S. 104.011(2)). Whatever they might do in those two alternatives, whether they *intentionally* correct the time or they *intentionally* submit the registration form without the correct time, one can interpret the statutes that they have technically, but willfully violated a felony law possibly subjecting them up to five years in prison.

The easiest alternative is for the volunteer to telephone the registrant and inform the registrant of the error and obtain their consent, but the registration form does not contain the registrant's telephone number.

The only recourse is to retrace their steps to personally visit the applicant and have them initial or provide other evidence they have knowledge and consent to the modification. But, it is Sunday morning and does the volunteer know where the registrant goes to church, or if he or she is even at home?

What happens if the volunteer has gathered twenty voter registration forms and each form has the same five minute error? What can they do, but retrace their steps and obtain written verification of the change from each registrant to avoid the possibility of third degree felonies? And guess what? Now they are subject to absolute fines of \$250 for each late registration form, because they willfully turned in these registration forms late to avoid possible felony violations as they tried to correct what was initially an innocent mistake.

Unfortunately, in this complex mountain of bureaucratic technicalities of the new third party voter registration laws and rules, there are many hypothetical scenarios that would place the average citizen volunteering to register voters in danger of punitive fines and criminal penalties

Another catch-22 the State has now created, is that the State of Florida requires a voter registration agent to sign this Sworn Statement swearing that **“the facts stated in it are true”** before they can begin to register new voters.

But, the sworn statement they are signing is not true because it misstates Florida criminal law. If the volunteer signs the Sworn Statement as required by law, knowing that the Statement misstates the criminal laws of Florida, the volunteer under the same criminal Florida laws, as stated directly in the Sworn Statement **“commits perjury by a false written declaration”**, another felony of the third degree.

APPENDIX No. 5A

The Florida Legislature, and the Department of State, under this mandated form, have inadvertently and accidentally risked making potential felons of the thousands of volunteer men, women, and students who volunteer to register voters by requiring them to sign this inaccurate Sworn Statement before they even begin to gather voter registration forms.

No wonder a Supervisor of Elections who read this Sworn Statement told me they would never sign this document. **What rational citizen, student, parent, school teacher or other adult volunteer, regardless of education level or social economic background, would dare to engage in voluntary voter registration efforts!**

And what about law enforcement?

Not only are Supervisor of Elections required to report those who violate, technically or otherwise, the provisions involving civil fine violations to the Secretary of State, but, they also are required to turn over potential criminal violations of the criminal code to the State Attorney.

Florida Statutes, 104.11 makes it a **misdemeanor criminal penalty** against any sheriff, deputy sheriff or other local officer for “refusing to perform his or her duties relating to elections.”

Thus, through a section that is intended to require local law enforcement officers to enforce what up to now have been progressive elections laws, this provision now works to force local law enforcement to enforce this state mandated reversal of registration and voting opportunities.

This blatant change to the registration laws acts to suppress traditional volunteer voter registration groups and activities. These in turn suppress minority and other groups registration. It thus voting fits neatly into a comprehensive plan to accomplish these goals similar to other provisions of HB 1355 .

What is happening? The answer is simple. The **Florida Legislature was more interested in intimidating and discouraging potential voter registration volunteers and groups, rather than preventing violations of the voter registration laws over the specious argument that the State had to protecting the registrant.**

If there are allegations of problems protecting registrants registration form, this Committee should demand verification and documentation.

I believe the lack of this documentation, established by the transcripts of the legislative committee hearings, will amply show that the alleged need, when contrasted with the adverse impact on tens of thousands of unregistered voters will amply display the inaccuracy, falsehood and hypocrisy of the proponents of this change.

APPENDIX No. 5A

APPENDIX No. 6

So whom do the changes in Florida adversely affect and why are these changes bad?

One primary group affected adversely are college students who tend to vote Democratic.

In university towns and cities, where a large portion of the students may have come from other areas of Florida, the problem could be significant. Students who first come to college may suddenly become interested in civic affairs or excited by an issue or a professor, and decide to vote on election day. This is something we as a society ought to celebrate and encourage ... our young people becoming excited about civic affairs and wanting to become participant citizens in our democratic processes.

Apparently, the Florida Legislature and the Governor do not agree.

The other group primarily affected adversely are transients like renters and others in metropolitan areas who may change their residence to a new county within that metro district or to a new metropolitan area altogether in search for work or other reasons.

I have been informed that statistics show that minorities, particularly Hispanics and African Americans, move more than twice as often whites every five years. Thus, these minorities will be twice as likely as whites to be adversely affected by this law.

The law states because a qualified voter has moved to a new county and show up at a precinct in their new county on election day with driver's license or other identification showing residence in their old county, unlike before, they now cannot vote like other citizens, they must vote through provisional paper ballots.

Why is voting by a paper provisional ballot such a burden or unfair?

First, making this person fill out a paper provisional ballot, takes more administrative commitment and time by precinct workers who has to assign an individual to assist this voter ... and then after the voter has finished voting by paper ballot, they have to place their ballot in an envelope, seal and then sign the envelope, and then return it to the precinct workers. After this the paper provisional ballots must be collected and sent to a central area where their signature is once again validated for the alleged voter, then the ballots are open, reviewed for errors, then tabulated and counted by a the county canvassing board. However, before the Supervisors are allowed to count the vote, they must first contact the Supervisor from the county the voter came from, who then has to comb his or her voting records to determine whether the voter had previously voted in that county.

All of these new procedures, creates an unnecessary burden on the administration of our election laws, directly proportional to the amount of provisional ballots that must go through this cumbersome time consuming procedure.

APPENDIX No. 6

Needless to say, going through this process not only slows the balloting at the local precinct where the paper ballot is cast, but also the collection, transportation, distribution, verification, opening, re-verification, tabulating and counting by hand is immeasurably more labor intensive, costly and time consuming than when voting by automated machine at the precinct, also substantially delaying the results of the election until all the provisional ballots have been verified and counted.

More importantly, some Supervisors of Elections have stated that there is a significantly greater likelihood of a paper provisional ballot being discarded or not counted, than a comparable machine cast ballot, for a variety of possible reasons.

One obvious reason is when the signature is being verified, and the ballot being determined be valid, the voter is unavailable to answer in questions and correct any technical problems that can be corrected.

For example, if the voter has changed their name, or even changed the way they sign their name, they can resolve any confusion or misunderstanding right at the precinct polling place. However, if the signature appearing on the envelope containing the provisional ballot does not exactly match the signature maintained by the county or the state, the provisional ballot is immediately discarded and not counted.

This and other measures can cause paper provisional ballots to be counted at substantially lower rates than machine ballots cast at the voting precinct.

When the Florida Association of Supervisor of Elections states that there could be tens of thousands of such ballots, particularly in large metropolitan districts or counties with large colleges or universities, besides the increase in administrative burden and costs, there is a substantial risk of a sizeable number of ballots being discarded and not counted.

There is also the concern that when presented with a paper provisional ballot rather than a regular ballot, and the time and effort to fill it out, and the likelihood that the ballot may not be counted, the potential voter feels they are not fully participating on an equal footing with other citizens, may become discouraged and decide not to vote.

Furthermore, as indicated in my remarks, there was already substantial protection against double voting in the old law. Any person requesting to vote on election with ID showing residence in another county would first have to present sufficient Identification to prove their identity. They then would have to swear under a written oath that they had not voted in the other county and were qualified to vote in the new county. Since a single violation of any of the five sworn statements they made would create a third degree felony subjecting them to up to a five year prison, what other deterrent is rationally needed.

APPENDIX No. 6

Absent a strong indication of widespread double voting and abuse, which even FSASE stated did not exist, why did the legislature change the procedures?

Unfortunately, the answer reflects the explanations of the other procedures you are investigating.

Since this procedure is more likely to affect students as well as minorities and poorer citizens who are transient, this new law will depress the voting and thus the ability of these groups to fully participate in the electoral process.

With no evidence of widespread abuse and fraud in the area of double voting or similar election fraud, once again it is clear that the Governor and the Legislature's interests, as reflected in the other provisions, was the politically partisan suppression of registration and voting rights of groups likely to support Democratic candidates.