

April 25, 2023

The Honorable Kathleen Passidomo
Senate President
409 The Capitol
404 South Monroe Street
Tallahassee, FL

The Honorable Paul Renner
Speaker of the House
420 The Capitol
402 South Monroe Street
Tallahassee, FL

Re: Joint Opposition to Senate Bill 7050 and House Bill 7067 (Elections)

Dear President Passidomo and Speaker Renner:

The American Civil Liberties Union of Florida, Common Cause Florida, All Voting is Local Action, the NAACP Florida State Conference, Equal Ground Action Fund, Fair Elections Center, Faith in Public Life, League of Women Voters of Florida, The Legal Defense Fund (“LDF”), All About the Ballots, Black Women’s Roundtable-Lake, UnidosUS, Alianza for Progress, Hispanic Federation, Mi Familia Vota Florida, Poder Latinx, Mi Vecino, Florida Immigrant Coalition, NAACP Jacksonville Branch, Latino Justice PRLDEF, La Mesa Boricua de Florida, Harriet Tubman Freedom Fighters, Advancement Project, Campaign Legal Center, Florida Rising, SPLC Action Fund, Faith in Florida, State Voices Florida, Operation Fix Florida, Miami Freedom Project, Engage Miami, RAC-FL, The First Coast Leadership Foundation, Hope CommUnity Center, the Northside Coalition of Jacksonville, and Florida Conservation Voters write to express in the strongest possible terms our opposition to Senate Bill (“S.B.”) 7050 and House Bill (“H.B.”) 7067, which will make multiple unnecessary and harmful changes to Florida’s election laws.

As nonprofit, nonpartisan voting and civil rights organizations, we work to ensure all voters have equal and meaningful access to the ballot box. Among the signers to this letter are organizations who have helped register hundreds of thousands of citizens over the years and have hands-on experience with the voter registration process and its requirements. For the reasons outlined below, we believe these bills will make it harder for Floridians to register and vote, and undermine Florida’s reputation in previous elections as a gold standard of election administration. These proposed laws do nothing to make voting easier or more secure, nor do they address the problems of Florida’s labyrinthine process of determining voter eligibility.

Third-Party Voter Registration Organizations (3PVROs)

We have serious concerns that the requirements, deadlines, and fines for voter registration organizations these bills would establish are so harsh that the impact would be a gutting of community-based voter registration in Florida. Taken together, these changes create a framework that would make it extremely difficult for nonprofit voter registration organizations to operate. We believe this framework would have the harshest impacts on smaller organizations who are closest to the communities they serve.

These bills needlessly reduce the timeframe for third-party voter registration organizations to submit voter registration applications from the 14 days established by S.B. 90 in 2021 to just 10 days, while retaining the requirement established by S.B. 90 that the form must be delivered to the county in which the voter resides. While reducing the timeframe for submitting applications, these bills also increase the fines for late forms to \$50 *per day* per form. Furthermore, while these bills would require voter registration organizations to provide receipts to voters they help to register, the wording is confusing and unclear as to whether or not organizations are allowed to keep copies of the receipts or application forms, or other records to enable accountability, quality assurance, and monitoring of deadlines. The receipt requirement also leaves third-party voter registration organizations vulnerable to false receipts from bad actors and possible resulting investigations.

This legislation would make it difficult and expensive for organizations to engage volunteers as well as employees. It would prohibit all non-citizens, including lawful permanent residents and others, from handling voter registration forms. This is discriminatory on its face, implying that non-citizens are untrustworthy purely on the basis of their immigration status, and would also force organizations to check the citizenship status of every single voter registration volunteer. This legislation would also prohibit anyone with a prior felony conviction for certain crimes from handling voter registration forms, which flies in the face of second chances, and would force organizations to conduct a background check on every single voter registration volunteer. Both these provisions are overly cumbersome and expensive, and would essentially require even small community organizations to conduct full background checks on potential volunteers or cease operations if they cannot afford such checks. If found to be in violation of this language, groups face a fine of \$50,000 *per person*.

Finally, these bills increase the annual amount of fines that may be assessed against third-party voter registration organizations from \$50,000 to \$250,000 per year. This is well beyond an amount that community-based organizations, many of whom rely on volunteers, can even begin to afford. There is no graduation in these fines or allowances for human error. These bills paint all third-party voter registration organizations with one brush, punishing good actors who make the occasional human error with the same harshness as the few bad actors who are consistently negligent.

Together these measures will create an overwhelming chilling effect, and groups will have to decide between risking fines of a magnitude they cannot shoulder, or simply cease undertaking voter registration activities altogether. These essential activities are protected by the First Amendment.¹ As a federal court in Florida has explained, community-based voter registration organizations' activities, including registration drives in which the organizations collect registration applications, implicate protections for speech and association under the First Amendment, as well as protections for the right to vote under the First and Fourteenth and Amendments.²

It must be noted that this legislation will have a disproportionate impact on Black and Hispanic voters – one out of every 10 of whom are registered by these organizations, along with one out of every 50 white voters.³ It will also reduce voter registration options for any Floridian without a Florida driver license or state ID because these voters cannot use the Online Voter Registration system and thus need to register using paper forms.

These bills do nothing to increase voter registration outreach by elections offices to fill the gap that will be left by reduced operations of third-party voter registration organizations. Communities that have traditionally been underrepresented and underserved cannot rely on the state to fill in the gaps, especially as Florida has left the Electronic Registration Information Center (ERIC), which required outreach to eligible but unregistered voters.

Voter Information Cards

HB 7067 and SB 7050 contain provisions that require Voter Information Cards to include the following language:

“This card is for information purposes only. This card is proof of registration but is not legal verification of eligibility to vote. It is the responsibility of a voter to keep his or her eligibility status current.”

¹ *League of Women Voters of Fla. v. Browning*, 863 F. Supp. 2d 1155, 1158–59, 1164 (N.D. Fla. 2012); see also *Charles H. Wesley Educ. Found., Inc. v. Cox*, 408 F.3d 1349, 1353–54 (11th Cir. 2005) (explaining that voter-registration drives are also federally protected activities under the National Voter Registration Act of 1993 (“NVRA”), because the NVRA gives organizations a “legally protected interest” in returning registration applications collected through those drives and having those applications processed).

² *League of Women Voters of Fla.*, 863 F. Supp. 2d at 1159.

³ See Smith, Daniel A., *Expert Report Submitted on Behalf of Florida State Conference of NAACP v. Lee*, 4:21-cv-187-MW-MAF, and *Florida Rising Together v. Lee*, 4:21-cv-201-MW-MJF, September 2021
<https://www.brennancenter.org/sites/default/files/2022-03/Dr.%20Daniel%20A.%20Smith%20-%20Expert%20Report.pdf>

The addition of this language on official voter information cards sends mixed signals to voters, and in some cases may dissuade eligible citizens from voting altogether. It also continues the state’s pattern of behavior in abdicating its role in verifying voter eligibility and passes that responsibility on to average citizens, who do not know the complexities of election law. This will particularly dissuade Floridians with past felony convictions whose rights have in fact been restored from voting, as this legislation fails to provide returning citizens with a timely and convenient way to determine their eligibility.

Vote-by-Mail

One in three Florida voters cast their ballot by mail in the November 2022 election, including large percentages of Republican, Democratic and No Party Affiliation voters. Vote-by-mail works for Floridians, and the Florida Supervisors of Elections Vote-by-Mail workgroup unanimously recommended against any legislative changes to the vote-by-mail process.⁴

However, this legislation changes the vote-by-mail process and provides voters with less time to request a vote-by-mail ballot. It reduces the timeframe to request a ballot be mailed to the voter by two days, and requires a cumbersome and confusing emergency affidavit for a voter or their designee to pick up a ballot during the mandatory early voting period.⁵ Requiring an “emergency excuse” to pick up a vote-by-mail ballot hurts Floridians in Black and Brown communities, voters with disabilities, seniors, students, and those who work long hours and/or have unpredictable schedules. This legislation introduces unnecessary administrative vote-by-mail burdens on both voters and Supervisor of Elections offices, but fails to make basic changes that would improve voter access, such as recognizing the necessity of electronic ballot delivery for Accessible Vote-by-Mail.

This is the third year in a row that substantial changes are being made to the election code, however, the pending legislation contains no provision for voter outreach and education regarding these rule changes. This means that the brunt of the responsibility around voter education will fall to already stretched Supervisors of Elections offices and the very third-party voter registration organizations that this legislation targets.

For the reasons outlined above, the undersigned request SB 7050 and HB 7067 be tabled until legislative language can be produced that does not unfairly target third-party voter registration organizations and otherwise make it harder to vote.

Sincerely,

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⁴ Florida Department of State. (2023). *Florida Department of State Office of Election Crimes and Security Report*. <https://files.floridados.gov/media/706232/dos-oecs-report-2022.pdf>

⁵ Currently, voters can request a mail ballot be mailed to them until 10 days before the election or pick up a vote-by-mail ballot or ask a family member to pick it up for them from the time they are printed all the way up until the day before election day.

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