

April 21, 2021

*Sent via email*

The Florida Senate  
404 S. Monroe Street  
Tallahassee, FL 32399

**Re: Opposition to S.B. 90**

Dear Senate President Simpson, Majority Leader Mayfield, Minority Leader Farmer, and members of the Florida Senate:

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”) and the NAACP Florida State Conference (“FSC”) write to express in the strongest possible terms our opposition to S.B. 90.<sup>1</sup> We are deeply concerned that the enactment of S.B. 90 will impose unnecessary barriers and burdens that will disproportionately impact the rights of Black voters and other voters of color, voters with disabilities, the elderly, and low-income voters—and may violate federal laws, including the First, Fourteenth and Fifteenth Amendments to the U.S. Constitution, the Voting Rights Act of 1965, and the Americans with Disabilities Act. For these reasons, we urge you to vote no on S.B. 90.

As nonprofit, nonpartisan civil rights organizations, our aim is to ensure that all voters, particularly Black voters and other voters of color, have full, meaningful, and unburdened access to the one fundamental right that is preservative of all other rights: the right of citizens to access the ballot box, participate in the electoral process on an equal basis, and elect candidates of their choice. Equitable voting opportunities are critical to ensuring that Florida voters can safely, securely, and freely participate in our democracy. Increasing voting access builds a healthier, more inclusive democracy. Accordingly, the Florida Senate should be considering measures to preserve and *expand* voting rights and voting access—not measures that would erode these fundamental guarantees.

Yet S.B. 90 is written to undermine significant progress to expand voting rights and ballot access in Florida, especially for Black voters and other voters of color. Although we have concerns about many of the provisions in S.B. 90, in this letter we draw your attention primarily to the severe new restrictions that S.B. 90 would impose on Vote-by-Mail (“VBM”) ballots and the ban on giving food, water, or “any item” to voters waiting in line.

---

<sup>1</sup> See S.B. 90, Florida Senate (2021), Version c3 (posted April 20, 2021, 10:26 A.M.) (“S.B. 90”).

**I. S.B. 90 Imposes Severe Restrictions on VBM Ballots, Which Will Likely Result in Disproportionate Barriers and Burdens on Black Voters and Other Voters of Color, Voters With Disabilities, Elderly Voters, and Low-Income Voters.**

S.B. 90 imposes a range of new restrictions that will make it more difficult for voters to cast VBM ballots at every stage in the process. Each of these provisions is harmful and unnecessary. Their likely combined effects raise still greater concerns. By imposing a myriad of new restrictions on VBM ballots—which will disproportionately affect Black and other voters of color, voters with disabilities, elderly voters, and low-income voters—S.B. 90 will exclude many voters from voting by VBM, and likely prevent other voters from voting altogether.

*First*, S.B. 90 will make it more difficult for voters to request VBM ballots by imposing an unnecessary identification requirement on the VBM request form. *Second*, even when voters are able to successfully request ballots, S.B. 90 will force them to renew their request every year, eliminating current laws that allow voters to place requests for two years at once. *Third*, S.B. 90 will make it more difficult for voters to return their VBM ballots by imposing new limitations on the availability of drop boxes. *Fourth*, S.B. 90 will restrict who can return completed VBM ballots on behalf of others. These restrictions are likely to force more voters to attempt to vote in person, leading to longer lines and wait times for all voters, and outright disenfranchisement for some.

S.B. 90's assault on voting by mail is especially concerning because it comes immediately after an election in which Florida's Black voters cast VBM ballots at unprecedented levels. In the 2020 general election, 522,038 Black voters cast VBM ballots,<sup>2</sup> more than double the number of VBM ballots cast by Black voters in previous years.<sup>3</sup> Moreover, the proportion of VBM ballots that were cast by Black voters has increased by over 28% since the 2016 election.<sup>4</sup> There has been no evidence of fraud in VBM balloting that provides any justification for these provisions of S.B. 90. Passage of S.B. 90's novel restrictions at this moment appears, instead, to be a reaction to increased Black participation in voting by mail.

---

<sup>2</sup> See Daniel A. Smith, *Casting, Rejecting, and Curing Vote-by-Mail Ballots in Florida's 2020 General Election, Report for All Voting is Local* (Feb. 16, 2021), <https://bit.ly/3tDdzZ3>.

<sup>3</sup> In the 2016 general election 244,348 Black voters cast VBM ballots and in the 2018 general election 238,200 Black voters cast VBM ballots in 2018. See Anna Baringer, Michael C. Heron, and Daniel A. Smith, *Voting by Mail and Ballot Rejection: Lessons from Florida for Elections in the Age of the Coronavirus*, *Election Law Journal: Rules, Politics, and Policy*, Vol. 19, No. 3 (Sept. 17, 2020), <https://bit.ly/3uRtVgw>.

<sup>4</sup> In 2016, 89 out of every 1,000 VBM ballots were cast by Black voters. In 2020, 114 out of every 1,000 VBM ballots were cast by Black voters. See *supra* note 2. This represents an increase in the proportion of VBM ballots cast by Black voters of over 28% in four years.

### **a. Identification Requirement for VBM Ballot Requests (Section 20)**

Section 16 requires registered voters making “written or telephonic requests” for a VBM ballot to provide a Florida driver license number, Florida identification card number, or the last four digits of their social security number.<sup>5</sup> This is an unnecessary burden on VBM requesters that will prevent some voters, including recently naturalized citizens, from being able to request VBM ballots.

Florida is already required, under federal law, to permit eligible voters who lack a driver license, state identification card, or SSN to register to vote.<sup>6</sup> As both Florida law and the federal Help America Vote Act (HAVA) recognize, some qualified voters have neither a driver license, a state identification card, nor a Social Security Number (SSN).<sup>7</sup> These voters may include newly naturalized citizens, who are predominantly people of color.<sup>8</sup> Yet S.B. 90’s language appears calibrated to exclude such voters from requesting VBM ballots. This failure of S.B. 90 serves no legitimate purpose and will bar some voters—who are likely disproportionately voters of color—from the VBM process.

### **b. Limitation on Standing VBM Applications (Section 20)**

S.B. 90 would also burden all Florida voters, including elderly voters who disproportionately rely on VBM, by making them re-apply for VBM ballots twice as frequently as current law requires.<sup>9</sup> The bill’s curtailment of the duration of valid VBM requests serves no legitimate purpose and will discriminatorily harm older Florida voters, voters with disabilities, and other voters who rely on VBM ballots to access the franchise.

---

<sup>5</sup> See S.B. 90, Section 16.

<sup>6</sup> 52 U.S.C. § 21083(a)(5)(A)(ii).

<sup>7</sup> 52 U.S.C. § 21083(a)(5)(A)(ii) (HAVA providing that, if a voter-registration applicant “has not been issued a current and valid driver’s license or a social security number,” states must “assign the applicant a number which will serve to identify the applicant for voter registration purposes”); Fla. Stat. § 97.053(5)(a) (providing that voter-registration applicants who “ha[ve] not been issued a current and valid Florida driver license, Florida identification card, or social security number” may confirm their identify by “affirm[ing] this fact in the manner prescribed in the uniform statewide voter registration application”); see also *Fla. State Conf. of N.A.A.C.P. v. Browning*, 522 F.3d 1153, 1156 & n.1 (11th Cir. 2008) (discussing these procedures); Florida Voter Registration Application, Fla. Dep’t of State, <https://files.floridados.gov/media/701770/1s-2040-ds-de-39-eng.pdf> (including a check box allowing voters to indicate they “have NONE of these numbers”).

<sup>8</sup> See Abby Budiman, Luis Noe-Bustamante & Mark Hugo Lopez, *Naturalized Citizens Make Up Record One-in-Ten U.S. Eligible Voters in 2020* 7, Pew Research Center (Feb. 26, 2020), [https://www.pewresearch.org/hispanic/wp-content/uploads/sites/5/2020/02/GMD\\_2020.02.26\\_Immigrant-Eligible-Voters.pdf](https://www.pewresearch.org/hispanic/wp-content/uploads/sites/5/2020/02/GMD_2020.02.26_Immigrant-Eligible-Voters.pdf).

<sup>9</sup> See S.B. 90, Section 16.

Currently, Florida law provides that a single VBM application enables a voter to cast a VBM ballot for all elections until the end of the next calendar year. Under S.B. 90, however, voters will be forced to renew their request every year, eliminating the current law that allow voters to place requests for two years at once. In fact, any voter who applies for a VBM ballot after July 1, 2021, will be forced to reapply for any election held after December 31, 2021—only six months later.

To the extent that this onerous requirement is intended to “to prevent live ballots from being sent to addresses that are no longer valid,” as S.B. 90’s sponsor claimed in the April 14, 2021 hearing,<sup>10</sup> procedures under existing state law for updating and verifying voter registration addresses are already adequate to ensure that SOEs have updated address information for registered voters in their county, and that VBM ballots reach only the voters who have requested them.<sup>11</sup>

In light of these facts, the severe burdens caused by S.B. 90’s provisions requiring voters to re-apply for VBM ballots every year further no legitimate state interest.

### **c. Limitations on Drop Box Availability (Section 23)**

S.B. 90 would mandate that drop boxes must only be used during early voting hours of operation and must be monitored in person by an employee of

---

<sup>10</sup> *4/14/21 Senate Committee on Rules* at 3:53:58–3:54:20, The Florida Channel, <https://thefloridachannel.org/videos/4-14-21-senate-committee-on-rules/> (Sen. Baxley stating: “Largely, what we’re doing when we set these time boundaries is to prevent live ballots from being sent to addresses that are no longer valid. This is how you keep your voter file current and updated by location so that you’re sending these—you don’t even know what ballot to send them if you’re not up-to-date on their address”); *see also id.* at 3:55:09–3:55:22 (Sen. Baxley testifying that, without a time limit on the validity of VBM requests, “you’re gonna wind up with ballots going where nobody lives anymore, and it’s not a responsible system when you can’t keep up with where your voters are, and you won’t even know which ballot to send them”).

<sup>11</sup> *See, e.g.*, Fla. Stat. § 101.62(1)(a) (providing that a request to receive VBM ballots “may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable”); Fla. Stat. § 97.1031(1) (requiring voters to notify the appropriate supervisor of elections if they change their residence address); Fla. Stat. § 98.0655 (setting out voter registration list maintenance procedures to identify voters who may have moved without notifying their supervisor of elections); Fla. Stat. § 98.045(2)(b) (providing that notice from “a voter registration official from an election official in another state indicating that a registered voter in this state has registered to vote in that other state shall be considered as a written request from the voter to have the voter’s name removed from the statewide voter registration system”); Fla. Stat. § 98.015(3) (making SOEs responsible for updating voter registration information, including addresses); Fla. Stat. § 97.057 (requiring the Department of Highway Safety and Motor Vehicles to provide voters an opportunity to update their voter registration information, and requiring the Department to notify voters that change-of-address information can be automatically transferred to a voter registration application).

the supervisor's office.<sup>12</sup> In practice, these changes would dramatically reduce the availability of drop boxes in three main ways.

*First*, this bill would provide that drop boxes can only be available on days on which early voting is already taking place. Under current law, Supervisors of Elections ("SOEs") have flexibility to provide drop boxes on days when early voting is *not* available.<sup>13</sup>

The flexibility provided under current law is important for voters who seek to return their VBM ballots to drop boxes *before* the start of the early voting period. SOEs are required by law to send VBM ballots to most voters between 40 and 33 days before the election,<sup>14</sup> but early voting is required to begin only 10 days before the election.<sup>15</sup> Many voters may wish to return their VBM ballot to a drop box shortly after receiving it, but S.B. 90 would force some voters to wait weeks before they can do so. The flexibility provided under current law is also important for voters seeking to return their ballots to drop boxes after early voting ends and on Election Day itself.<sup>16</sup> Some voters do not receive their VBM ballot until the final days before the election and may not have enough time to return their VBM ballot by mail.<sup>17</sup>

*Second*, this bill would restrict the hours during which drop boxes are available to the hours of early voting.<sup>18</sup> Under current law, many SOEs provide 24-hour drop boxes (often at the main SOE office), which allows voters flexibility to return their VBM ballot outside of normal working hours. This bill would eliminate all 24-hour drop boxes and restrict the hours during which drop boxes could be made available.

*Third*, by imposing a strict requirement that drop boxes must be monitored in person, this bill would limit *where* drop boxes may be placed. In recent elections, many counties placed drop boxes outdoors and ensured security with 24-hour video surveillance. The convenience of outdoor drop boxes was helpful to reduce lines and crowding inside early voting locations and also facilitated

---

<sup>12</sup> See S.B. 90, Section 19.

<sup>13</sup> See Fla. Stat. § 101.69(2).

<sup>14</sup> See Fla. Stat. § 101.62(4)(b).

<sup>15</sup> See Fla. Stat. § 101.657(1)(d). SOEs have discretion to offer early voting as early as 15 days before an election. *Id.*

<sup>16</sup> The last day that early voting is required is the 3rd day before an election, but SOEs have discretion to offer an additional day of early voting on the 2nd day before an election. See Fla. Stat. § 101.657(1)(d).

<sup>17</sup> Florida law requires that all VBM ballots are received by the supervisor by 7 p.m. on the day of the election. See Fla. Stat. § 101.67(2). Accordingly, the Florida Division of Elections recommends that voters mail their completed VBM ballots at least one week before the day of the election. See *Vote-by-Mail*, Florida Department of State, Florida Division of Elections, <https://dos.myflorida.com/elections/for-voters/voting/vote-by-mail/>.

<sup>18</sup> State law provides that early voting must occur for at least 8 hours per day but not more than 12 hours per day. See Fla. Stat. § 101.657(1)(d).

creative options like “drive through” drop boxes that voters could utilize without leaving their cars. By requiring all drop boxes to be staffed, SOEs would be forced to move drop boxes inside where staff are located or assign additional staff specifically to monitor drop boxes.

S.B. 90’s significant restrictions on drop boxes are deeply concerning. Drop boxes have become a frequently-used best practice nationwide—the United States Department of Homeland Security has endorsed drop boxes as a “secure and convenient means for voters to return their mail ballot” and recommends that states provide one drop box for every 15,000 to 20,000 voters.<sup>19</sup> Florida voters—especially racial minority, low-income, elderly, and disabled voters—have come to rely on drop boxes as a safe and an important option for casting their VBM ballot. For many voters—especially voters with personal or professional commitments that limit their availability during normal voting hours, elderly voters, and voters with disabilities or other medical conditions—casting an in-person ballot during advance voting or on Election Day may be an untenable option, and broadly available drop boxes are an essential alternative. In addition, based on the widely reported issues with the United States Postal Service, which will likely persist,<sup>20</sup> some voters are not confident about returning their VBM ballot by mail.

These restrictions are especially troubling because they are likely to burden historically marginalized groups. For example, Black voters are less likely to be able to take time off work<sup>21</sup> and are therefore more likely to return their VBM ballot to a drop box in the evening, early morning, or weekend—options that would no longer be as widely available under S.B. 90. Elderly voters and voters with disabilities who have limited mobility are also more likely to rely on drop boxes that are placed outdoors and are easily accessible—an option that will be less readily available under S.B. 90. Curtailing the availability of this important option for vulnerable voters serves no legitimate purpose but will impose a severe burden on the right to vote.

---

<sup>19</sup> See *Ballot Drop Box*, Cybersecurity and Infrastructure Security Agency, <https://bit.ly/2OQGxoz>.

<sup>20</sup> Quinn Klinefelter, “There’s No End in Sight’: Mail Delivery Delays Continue Across the Country, NPR (Jan. 22, 2021), <https://www.npr.org/2021/01/22/959273022/theres-no-end-in-sight-maildelivery-delays-continue-across-the-country>.

<sup>21</sup> Florida’s Black households have an average income of \$55,883, far less than Florida’s white households (\$84,545), making it more difficult for Black Floridians to take time off work to vote. See *A14009, Average Household Income by Race*, 2019 American Community Survey 5-Year Estimates, United States Census. See also *Operation PUSH v. Allain*, 674 F. Supp.1245, 1256 (N.D. Miss. 1987), *aff’d sub. nom. Operation PUSH v. Mabus*, 932 F.2d 400 (5th Cir. 1991) explaining that lower-income workers “are likely to be working for an hourly wage and are less likely to be able to take off from work” to vote at appointed times than workers in higher-paying, salaried jobs).

#### **d. Limitations on Third-Party VBM Ballot Return (Section 26)**

S.B. 90 would impose new barriers on VBM voting by making it a crime for anyone to return completed VBM ballots on behalf of more than two voters who are not immediate family members.<sup>22</sup> This is an extreme and unnecessary restriction that would make it a crime for civic organizations, churches and other religious organizations, and any community organization to return completed VBM ballots on behalf of voters. In fact, under S.B. 90, it would become a misdemeanor in the first degree if a Floridian brought three VBM ballots to a drop box as a courtesy for their neighbor.

Florida *already* imposes restrictions on who can return completed VBM ballots on behalf of others by barring anyone from returning more than two completed VBM ballots in exchange for payment.<sup>23</sup> Further restrictions are unnecessary, as evidenced by the fact that the majority of other states do not limit the number of completed VBM or absentee ballots that someone can return on behalf of others.<sup>24</sup>

Third-party ballot return is especially important for Black voters and other voters of color, who are less likely to have access to a vehicle,<sup>25</sup> and may have more difficulty returning VBM ballots without assistance from their church or local community organizations. Third-party VBM ballot collection is also particularly important for voters who have limited mobility, including elderly or disabled voters. These voters are more likely to rely on trusted third parties, such as home health aides or nonprofit organizations, to help them return their VBM ballot.

#### **II. S.B. 90 Also Increases the Hardship of Voting in Person by Banning Giving Water, Food, or “Any Item” to Voters Waiting in Line (Section 24)**

In addition to restricting VBM availability—which will likely force more voters to vote in person, if they are able to vote at all—S.B. 90 would also increase the hardship of waiting in line to vote a ballot in person. S.B. 90 would prohibit Good Samaritans from providing free water and nourishment to voters

---

<sup>22</sup> See S.B. 90, Section 22.

<sup>23</sup> See Fla. Stat. § 104.0616(2) (making it “a misdemeanor of the first degree” for any person to provide or accept “a pecuniary or other benefit for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing more than two vote-by-mail ballots per election” that do not belong to the person or the person’s immediate family member).

<sup>24</sup> See National Conference of State Legislatures, *Who Can Collect and Return an Absentee Ballot Other Than the Voter*, <https://bit.ly/3cvVHrt>.

<sup>25</sup> Black Floridians are nearly four times as likely than white Floridians to commute to work using public transportation. See U.S. Census Bureau, 2019 5-Year American Community Survey, Tables B08105A and B08105B. Moreover, 22.0% of Black residents in Florida live below the poverty level, in contrast to just 12.1% of white residents, and are therefore less able to afford a car or other means of transportation. *Id.*, Tables A13001A and A13001B.

standing in long lines—expanding the definition of “solicitation,” which can carry misdemeanor liability, to include “giving or attempting to give any item to a voter.”<sup>26</sup> This restriction is wholly unnecessary, because federal and state law already prohibit knowingly or willfully paying, offering to pay, or accepting anything of monetary value in exchange for voting.<sup>27</sup> Moreover, there has been no allegation of any provision of food or water to voters waiting in line running afoul of Florida law in recent elections.

This ban would, however, disproportionately burden Black voters and other voters of color. Black and Latino voters in Florida tend to encounter longer lines when voting in person and therefore are more likely to need water and food to make the longer waits tolerable.<sup>28</sup> Churches and other civic organizations that serve Black voters and other voters of color often provide water and nourishment to voters waiting in line. The ban would also harm elderly voters and disabled voters, who may have more difficulty waiting in line and are more likely to need water or food to remain in line. This restriction may lead to negative health consequences for older voters and other vulnerable voters<sup>29</sup> and is not justified by any legitimate purpose.

### **III. The Provisions of S.B. 90 Identified Above Are Not Justified by Any Legitimate State Interest.**

The November 2020 general election was conducted under the extraordinarily challenging circumstances of a global pandemic. Yet, according to Governor Ron DeSantis, “Florida’s 2020 election season was a resounding success and model for the nation.”<sup>30</sup> Moreover, Secretary of State Laurel Lee explained, “Under the most trying of circumstances, Florida ensured a safe and efficient voting process [for] all Florida voters.”<sup>31</sup> Based on the November 2020 election, Secretary Lee added, Florida voters “should be confident in the integrity of our election system and the security of their vote.”<sup>32</sup> In light of this record of successful and secure election administration in Florida, no legitimate

---

<sup>26</sup> See S.B. 90, Sections 10 & 20; see Fla. Stat. §§ 101.051, 102.031.

<sup>27</sup> See 52 U.S.C. § 10307(c); 18 U.S.C. § 597; Fla. Stat. § 104.061.

<sup>28</sup> See Brennan Center for Justice, *Election Day Long Lines: Resource Allocation*, <https://bit.ly/3tsDqm2> (concluding that “within Florida counties, precincts with higher percentages of black or Latino registered voters tended to have longer lines.”).

<sup>29</sup> See *Early Voters Impacted by Extreme Weather in 2020*, Climate Power (Oct. 30, 2020), <https://climatepower.us/resources/early-voters-impacted-by-extreme-weather-in-2020/> (compiling instances in Florida and elsewhere “where 2020 voters have been impacted by climate change – from passing out from heat exhaustion to being displaced by wildfires, and polling places closing because of supercharged hurricanes”).

<sup>30</sup> Ron DeSantis (@GovRonDeSantis), Twitter (Jan. 2, 2021, 2:31 PM), <https://twitter.com/Gov-RonDeSantis/status/1345452642303176706>.

<sup>31</sup> Jason Delgado, *Florida’s electoral college casts votes for Donald Trump, Mike Pence*, Florida Politics, (Dec. 14, 2020), <https://floridapolitics.com/archives/388818-floridas-electoral-college-casts-votes-for-donald-trump-mike-pence/>.

<sup>32</sup> *Id.*

state interest would be furthered by imposing the severe and needless restrictions on voting access set forth in S.B. 90.

#### **IV. The Legislative Process to Advance S.B. 90 Is Neither Open, Transparent, Nor Inclusive.**

S.B. 90 would profoundly change the election system in Florida. The far-reaching consequences of such a significant exercise of the legislative power calls for open, transparent, and measured deliberation. Yet S.B. 90's consideration has been marked by a series of procedural deviations and irregularities that have made it difficult or impossible for the public to participate in the legislative process.

*First*, during the April 14, 2021 hearing, the only opportunity for members of the public to provide testimony regarding S.B. 90 to the Senate Committee on Rules was to travel to the Tallahassee Civic Center and testify via a video feed broadcast from that location.<sup>33</sup> This approach seemed calculated to minimize opportunities for the public to participate. Unlike other legislatures across the country and other government bodies in Florida, the state legislature has not permitted any testimony over Zoom or other remote platforms, instead requiring individuals to travel in-person to Tallahassee.

*Second*, members of the public who traveled to the Civic Center from across the state to testify before the Senate Committee on Rules on S.B. 90 were allowed only one minute to testify, and often had their microphone unceremoniously disabled after sixty seconds.<sup>34</sup>

*Third*, language for a “strike-all” amendment to be considered for S.B. 90 was only first posted online on April 13, 2021 (a total of 1,031 lines of text), the day before a 9 A.M. Rules Committee meeting in which that language was considered for the first time and ultimately adopted. This was not sufficient time for members of the public to review and meaningfully comment on the new language.

The Committee's strict curtailment of public testimony on a bill of such importance is a departure from ordinary procedures for public testimony at a legislative hearing, which raises additional concerns that S.B. 90 may be unconstitutional if enacted. *See Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 267 (1977) (when evaluating whether legislation was enacted with a racially discriminatory purpose, courts should consider the historical background of the legislation, including any departures from the normal legislative process).

---

<sup>33</sup> See 4/14/21 Senate Committee on Rules, *supra* note 10, at 4:04:35–4:26:30,

<sup>34</sup> See *id.*

## V. S.B. 90 Likely Violates Federal Law.

S.B. 90 likely violates multiple federal laws. The facts recited above, including the procedural departures from the ordinary legislative process, the lack of any neutral or legitimate justification for the proposals, and the foreseeable disparate impact on Black voters and other voters of color, voters with disabilities, elderly voters, and low-income voters, suggest the provisions contained in Sections 20, 23, 24, and 26 of S.B. 90 individually and collectively raise serious concerns under the Fourteenth and Fifteenth Amendments to the U.S. Constitution and Section 2 of the Voting Rights Act. U.S. Const. amends. XIV, XV; *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252 (1977); 52 U.S.C. 10301. These same provisions burden the right to vote without any legitimate state interest, which may also violate the First and Fourteenth Amendment to the U.S. Constitution.<sup>35</sup> Moreover, this Committee has not offered reasonable modifications necessary to ensure voters with disabilities will not be precluded from fully and equally participating in elections, which may violate Title II of the Americans with Disabilities Act. 42 U.S.C. § 12131.

\* \* \*

For the foregoing reasons, we respectfully urge the Senate to vote no on S.B. 90. Please note that we are prepared to take decisive action to prevent the disenfranchisement of eligible voters in Florida if the bill is passed.

Please feel free to contact Michael Pernick at (917) 790-3597 or by email at [mpernick@naacpldf.org](mailto:mpernick@naacpldf.org) with any questions or to discuss these concerns in more detail.

Sincerely,

*/s/ Michael Pernick*

Natasha Merle, Senior Counsel

Zachery Morris, Assistant Counsel

Morenike Fajana, Assistant Counsel

Michael Pernick, Redistricting Counsel

Steven Lance, Policy Counsel

NAACP Legal Defense & Educational Fund,

---

<sup>35</sup> See *Burdick v. Takushi*, 504 U.S. 428 (1992) (“A court considering a challenge to a state election law must weigh ‘the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiffs seeks to vindicate’ against ‘the precise interest put forward by the State as justifications for the burden imposed by its rule,’ taking into consideration ‘the extent to which those interests make it necessary to burden the plaintiff’s rights.’”) (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983)).

Inc.  
40 Rector Street, 5th Fl.  
New York, NY 10006

Lisa Cylar Barrett, Director of Policy  
NAACP Legal Defense & Educational Fund,  
Inc.  
700 14th Street N.W., Ste. 600  
Washington, DC 20005

David Honig, Special Counsel for Civil Rights  
Pamela Burch Fort  
Florida State Conference, NAACP  
P.O. Box 101060  
Fort Lauderdale, FL 33310

NAACP Legal Defense and Educational Fund, Inc. (“LDF”)

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that increase access to the electoral process and prohibit voter discrimination, intimidation, and suppression. LDF has been fully separate from the National Association for the Advancement of Colored People (“NAACP”) since 1957, though LDF was originally founded by the NAACP and shares its commitment to equal rights.

NAACP Florida State Conference

Founded in 1909, the NAACP is the nation’s oldest and largest nonpartisan civil rights organization. Its members throughout the United States and the world are the premier advocates for civil rights in their communities. In 1941, the NAACP Florida State Conference was formed as the first State Conference in the nation.