



August 18, 2011

Mr. T. Christian Herren, Jr.
Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

RE: Texas Submission under Section 5, Voting Rights Act, of Senate Bill 14

Dear Mr. Herren:

The League of Women Voters of Texas writes to express concerns about granting preclearance under Section 5 of the Voting Rights Act to Senate Bill 14 (SB 14) which would require nearly all voters to present one of a few qualified photo IDs to be accepted for a regular ballot beginning in January 2012. We fear that implementation of this law as scheduled may perpetrate existing disparities in voter participation between Anglos and minorities in Texas.

LWV has long fought against unnecessary barriers to voting that impose needless difficulties on voters or tend to discourage legitimate voters from going to the polls and casting a ballot. Texas already requires voters to provide identification at the polls. To close what was characterized as a "potential loophole for fraud," SB 14 would restrict acceptable identification a voter must present to a limited list of photo IDs. Attorney General Greg Abbott and his office found no significant voter fraud in Texas and no real evidence of voter impersonation that might be remedied by requiring all voters to provide a photo ID to verify their identity. The criminal justice impact statement with SB 14 also notes that very few vote illegally in Texas, "less than 5" in 2010. The addition of this requirement creates both barriers and uncertainty for all voters, and both barriers and uncertainty may disproportionately affect minority populations.

In recent years Texas has lagged the nation in voter registration and has been among the states with the lowest turnout of the voter eligible population, 46th in 2008 and 50th in 2010. There are differential patterns of voter participation based on race/ethnicity. According to census data on the voter eligible population in Texas, Anglos and Blacks in 2008 had comparable rates of voter registration (72.4% and 73.7% respectively) and voter turnout (64.7% and 64.9% respectively). However, rates of voter registration and turnout were substantially lower for Asians and Latinos (45.7% and 67% for voter registration; 33.7% and 55.4% for voter turnout). The added requirements of SB 14 make it more difficult to raise voter registration and turnout of underrepresented groups to the levels of groups with the highest voter participation rates.

Based on the percentage of Texas citizens who register to vote without providing a Texas Department of Public Safety (DPS) identification number, there may be 1 million or more voting eligible Texans without

a DPS-issued photo ID, likely the most common of photo IDs allowed by SB 14. There are significant barriers to obtaining and maintaining a current photo ID for many Texas citizens, particularly those with low income who are less likely to own a car and need a driver's license or to travel abroad and need a passport. They may not have the proof of citizenship required for a Texas DPS-issued driver's license or personal ID or a US passport. The burdens on those with low income to take off work, get transportation, obtain required documentation, stand in line, and apply for a photo ID would be substantial and fall disproportionately on minority groups. In Texas Latinos and African-Americans are almost three times more likely to live below the poverty line than Anglos. While 8.4% of Texas Anglos live in poverty, 23.8% of African Americans and 24.8% of Latinos do.

SB 14 provides that those without one of the photo IDs qualified under SB 14 may obtain a qualified, DPS-issued election identification certificate with a photo as of January 1, 2012. At this time Texas has not made public the process for obtaining this ID, whether the documentary proof of citizenship required for a DPS-issued driver's license or personal ID will be required for the election identification certificate, and what the processing time for an election identification certificate will be. The Texas DPS website indicates it currently takes 6 to 8 weeks to obtain a driver's license. If voters who need election identification certificates must wait to make application until after January 1, 2012, and then wait 6-8 weeks to obtain the ID, the window for applying and obtaining an election identification certificate in time for the March 6, 2012, primary elections is severely limited to a few weeks in early January.

SB 14 contains admirable provisions for state outreach to inform voters of the new requirements and encourage voter registration. Nonetheless, there are reasons to question to adequacy of likely actions. Election workers will inform voters of the 2012 photo ID requirement at the polls for the November 2011 Constitutional Amendment Election. However, turnout for constitutional amendment elections is the lowest of any statewide election. The fiscal note accompanying SB 14 makes no allowance for the cost of voter registration and outreach because "it is not known how many voter registration drives or other activities designed to expand voter registration would occur." Texas does not have a history of such efforts or an ongoing program so voter registration activities would be a new initiative not included in the budget passed for the 2012-12 biennium.

LWV-Texas is committed to increasing voter registration and turnout in Texas, particularly among minorities and others now underrepresented on registration lists and at the polls. We are also committed to help inform Texas voters of new photo ID requirements and how to obtain one of the qualified photo IDs. Our efforts are hampered, however, because many details about the implementation of SB 14 have yet to be announced and by limitations on voter registration efforts in other new election laws including HB 2194 and HB 2817. We don't know what to tell a voter who lacks and doesn't need one of the other qualified IDs until details for obtaining the new election identification certificate are known. Advising voters who need to obtain one of the qualified IDs to start gathering the documentation required for a DPS-issue personal ID or US passport now would be costly and unnecessary if it turns out such documentation is not required for the election identification certificate. Delay until the election identification certificate requirements are known, however, may leave inadequate time for those who lack documentation to obtain it, apply for, and receive an election identification certificate prior to the March primaries

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if proof of citizenship is required for this certificate.

We urge the Department of Justice to require that Texas provide details of SB 14 implementation, including but not limited to the election identification certificate, so that the impact on minority voters can be assessed and to ensure that there is ample time once the essential details are known for eligible minority voters to learn of and comply with the photo ID requirement before SB 14 takes effect.

Sincerely,

Karen Nicholson
President, LWV-Texas