



March 22, 2018

VIA EMAIL ONLY

The Honorable David Ralston
Speaker of the Georgia House of Representatives
c/o Spiro Amburn, Chief of Staff &
Terry Chastain, General Counsel
Georgia General Assembly
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Atlanta, GA 30334
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Re: Georgia Senate Bill 363

Dear Speaker Ralston:

On behalf of the Georgia Coalition for the Peoples' Agenda, Georgia State Conference of the NAACP, New Georgia Project, Asian Americans Advancing Justice – Atlanta, Georgia Association of Latino Elected Officials, and the Lawyers' Committee for Civil Rights Under Law,¹ we are writing to express our strong objection to the passage of Georgia Senate Bill 363, which is currently under consideration by the Georgia House of Representatives.

Collectively, our organizations are advocates for ensuring that all voters – particularly minority voters and voters from underserved communities - have full and equal access to the ballot box. We support measures that remove artificial barriers to voting, encourage voter participation and enhance the experience of voters who wish to participate in our democratic form of government. We are objecting to SB 363 because the bill is contrary to all of these goals and will disproportionately negatively impact voters of color and voters from underserved communities.

Under existing law, O.C.G.A. § 21-2-385 mandates that early voting be held on the *second* Saturday before primary and general elections when there are state or federal candidates on the ballot. Existing law also permits jurisdictions to offer early voting on *both* Saturdays and Sundays during the early voting period and permits municipalities to extend the poll hours as they deem necessary in the best interests of the voters during *both* weekday and weekend early voting periods.

O.C.G.A. § 21-2-402, which has been in effect since the 1970's, allows for the extension of poll hours to 8:00 p.m. for jurisdictions with populations of 300,000 or more. The city of Atlanta,

¹ A description of the organizations signing onto this letter is set forth in Attachment "A" at the end of this letter.



Georgia's most populous and a majority African American city, is currently the only jurisdiction that meets the 300,000- population threshold.

When SB 363 was originally introduced in the Senate on January 29, 2018,² it included a proposal to amend O.C.G.A. §21-2-402 by cutting back the poll hours for cities with populations of 300,000 or more from 8:00 p.m. to 7:00 p.m.³

The bill was passed by the Senate on February 23, 2018, with all African American members of the Senate voting against the bill. The bill crossed over to the House on February 26, 2018. There was no mention in the original version of SB 363 of curtailing early voting days or times.

A drastically modified version of SB 363 was then approved by the House Governmental Affairs Committee on March 15, 2018.⁴ A majority of Republicans on the Committee voted in favor of the bill and all five Democrats voted against the bill, indicating that their opposition was because the bill was designed to suppress voter turnout.⁵

The modified version of SB 363 approved by the Republican majority of the House Governmental Affairs Committee, drastically reduces weekend early voting opportunities, which will negatively impact minority voter turnout and impose unnecessary hardships on minority voters and voters from underserved communities. In particular, the bill eliminates early voting on the last Sunday of the early voting period – a day when African American and other minority voters have traditionally organized “Souls to the Polls” and other events to increase minority voter participation.

Under the modified version of SB 363, jurisdictions would be limited to allowing only *one weekend day* (either a Saturday or Sunday, but not both) of early voting on the third, rather than second, weekend before a primary or general election when there are state or federal candidates on the ballot.

² The original version of SB 363 can be found at this link: <http://www.legis.ga.gov/Legislation/20172018/171795.pdf>

³ Section 1 of SB 363 also makes changes to existing law on the tabulation of advance voting ballots on DRE machines.

⁴ The version of SB 363 approved by the House Governmental Affairs Committee on March 15, 2018 can be found at this link: <http://www.legis.ga.gov/Legislation/20172018/176731.pdf>

⁵ Mark Niesse, *Bill to shorten Atlanta voting hours and curtail Sunday voting passes committee*, Atlanta Journal Constitution, March 16, 2018: <https://politics.myajc.com/news/state--regional-govt--politics/bill-shorten-atlanta-voting-hours-and-curtail-sunday-voting-passes-committee/seqRoqhMT3y2p49BAcAt2L/> (Last checked, March 22, 2018)



The modified version of SB 363 also eliminates Sunday early voting when there are no federal or state candidates on the ballot and limits the discretion of municipalities to extend voting hours and locations to weekdays only and not on weekends.

The version of SB 363 modified by the House Government Affairs committee also continues to include the shortening of the voting hours in Atlanta from 8 p.m. to 7 p.m., which will thereby work a double hardship on Atlanta voters who will lose an hour of evening voting time during the week, along with the elimination of the final Sunday of early voting and other negative changes to early voting.

Our collective organizations are extremely concerned that SB 363 in its current form will substantially and negatively impact voters of color who have come to rely upon weekend early voting, particularly on the final Sunday of the early voting period, when events such as “Souls to the Polls” have increased minority participation in Georgia’s elections.

The reduction of the poll hours in Atlanta – Georgia’s largest majority African American city – will also have a substantial, negative impact on minority voters who face traffic woes, experience delays and long lines at the polls and need the extended hour to be able to cast ballots after the conclusion of their work or school days.

These major changes, which are being proposed on the eve of an important mid-term election cycle, will also make it difficult for all 159 counties across Georgia to implement the changes to the early voting schedule on short notice and leave little time to ensure that the electorate has adequate notice about these changes.

As a result, confusion, delays, and problems at the polls are a likely outcome of this last-minute effort to substantially remake the early voting schedule just prior to the beginning of an important election cycle.

Therefore, we urge the House to kill SB 363 because of its substantial, disproportionate impact on voters of color, both in Atlanta and outside of Atlanta. These efforts to curtail early voting and reduce the voting hours in Atlanta to the detriment of minority voters, may give rise to challenges under federal law.⁶

For example, in *North Carolina State Conf. of the NAACP v. McCroy*, 831 F.3d 204, 226-27 (4th Cir. 2016), *cert. denied*, 137 S. Ct. 1399 (2017), the Fourth Circuit rejected North Carolina’s justifications for changes to early voting, finding “what comes as close to a smoking gun as we are likely to see in modern times, [North Carolina’s] very justification for a challenged statute hinges explicitly on race—specifically its concern that African Americans, who had overwhelmingly voted for Democrats, had too much access to the franchise.”

⁶ The changes proposed by SB 363 may give rise to challenges under Section 2 of the Voting Rights Act of 1965, as well as discriminatory purpose and fundamental right to vote challenges under the 1st, 14th or 15th Amendments to the Constitution.

The Fourth Circuit noted that early voting “increases opportunities to vote for those who have difficulty getting to their polling place on Election Day.” *Id.* at 216. The Court also observed that African Americans in North Carolina “are disproportionately likely to move, be poor, less educated, have less access to transportation, and experience poor health.” *Id.* at 233. “These socioeconomic disparities establish that no mere “preference” led African Americans to disproportionately use early voting...” *Id.*

The Sixth Circuit, in *Ohio State Conf. of NAACP v. Husted*, 768 F.3d 524 (6th Cir. 2014), *stayed*, 135 S. Ct. 42 (2014), has found that millions of Ohio voters took advantage of early voting in elections in 2008, 2010 and 2012, with African American and indigent voters utilizing early voting more than White and affluent voters. *Id.* at 532. As a result, the Court noted that African American and indigent voters were disproportionately impacted by restrictions on early voting. *Id.* at 535. The Court also concluded that any interest in reducing costs did not adequately justify the burdens that cutbacks to early voting placed on voters. *Id.* at 548.

In the case of SB 363, we have found no evidence in the record showing that our concerns about the negative and disproportionate impacts on minority voters and voters from underserved communities are unfounded or misplaced. In fact, while uniformity in the poll hours has been suggested as one excuse for the shortening of the Atlanta poll hours from 8:00 p.m. to 7:00 p.m., uniformity comes at a high price when the change in the voting schedule will impact the most populous city in the state, with the highest number of African American voters, who have relied upon the 8 p.m. poll closing deadline for decades.

In fact, no reasonable explanation has been provided why the poll hours cannot be made uniform by expanding the voting hours to 8:00 p.m. on a case by case basis in other counties with large populations instead of making voting more difficult for Atlantans.

Given the lack of any reasonable justification for the substantial cutbacks to weekend early voting, the shortening of the poll hours in Atlanta and in the face of the substantial disproportionate negative impact these changes will have on voters of color, we hope that the House will take prompt action to kill this bill. If the bill is passed and enacted into law, we will reserve the right to take any and all legal action necessary to protect the rights of minority voters in the Georgia.



Thank you for your attention and anticipated cooperation.

Very truly yours,

Lawyers' Committee for Civil Rights Under Law

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Jerry Gonzalez, Executive Director, Georgia Association of Latino Elected Officials

⁷ Admitted to practice law in the District of Columbia, California, New Hampshire, Massachusetts and Illinois (registered voluntarily inactive in Illinois).



Attachment A

The Georgia Coalition for the Peoples' Agenda (GCPA) is a nonprofit coalition of more than 30 organizations, which collectively have more than 5,000 individual members. The GCPA's support of voting rights is central to its mission and it commits time and resources to conducting voter registration drives, voter education, voter ID assistance, and get-out-the-vote efforts that seek to encourage voter turnout such as "Souls to the Polls."

The Georgia State Conference of the NAACP (GA NAACP) is a nonprofit membership organization that was founded in 1941. Its mission is to eliminate racial discrimination through democratic processes and ensure the equal political, educational, social, and economic rights of all persons, including African-Americans. It is headquartered in Atlanta and currently has approximately 10,000 members. The Georgia NAACP works to protect voting rights through litigation, advocacy, legislation, communication, and outreach. It promotes voter registration, voter education, get-out-the-vote efforts, election protection, and census participation.

The New Georgia Project (NGP) is a non-partisan, nonprofit organization. NGP's mission is to civically engage Georgians in underrepresented communities. NGP regularly conducts voter registration drives and GOTV efforts throughout Georgia.

Asian Americans Advancing Justice – Atlanta is a nonprofit organization that was founded in 2010. Located in Norcross, Georgia, the organization's mission includes protecting and promoting the civil rights of Asian immigrants and refugees in Georgia through public policy, legal education, and civic engagement. Advancing Justice engages in voter registration, voter education, and get-out-the-vote efforts in Georgia, with a particular focus on newly naturalized immigrant and refugee Asian-Americans.

The Georgia Association of Latino Elected Officials (GALEO) is a nonprofit organization which was established to increase representation of Latino elected and appointed officials, to proactively address issues and needs facing the Latino community, and to engage Georgia's Latino community in the democratic and political process. *See* GALEO's Mission Statement, *available at* <http://galeo.org/about-us/>

The Lawyers' Committee is a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy to enlist the private bar's leadership and resources in combating racial discrimination and the resulting inequality of opportunity. The principal mission of the Lawyers' Committee for Civil Rights Under Law is to secure equal justice for all through the rule of law, targeting in particular the inequities confronting African Americans and other racial and ethnic minorities.