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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Case No.: 1:06cv21265- SEITZ-MCALILEY

LEAGUE OF WOMEN VOTERS OF FLORIDA, PEOPLE
ACTING FOR COMMUNITY TOGETHER, *et al.*,

Plaintiffs,

v.

SUE M. COBB, individually and in her official capacity as
Secretary of State for the State of Florida, and DAWN
ROBERTS, individually and in her official capacity as
Director of the Division of Elections,

Defendants.

JOINT PROPOSED FINDINGS OF FACT

Plaintiffs and Defendants jointly submit these proposed findings of fact relating to the Plaintiffs' Motion for a Preliminary Injunction. Because the Parties could not agree on all proposed findings of fact, the Parties will submit separate proposed findings in addition to the stipulated findings below:

Procedural Background

1. On May 18, 2006, the League of Women Voters of Florida, People Acting for Community Together (PACT), Florida AFL-CIO, American Federation of State, County and Municipal Employees Council 79 (AFSCME), SEIU Florida Healthcare Union, as organizations and as representatives of their members, Marilyn Wills (Wills), and John and Jane Does 1-100 filed suit against Sue M. Cobb, individually and in her official capacity as Secretary of State for the State of Florida, and Dawn Roberts,

individually and in her official capacity as Director of the Division of Elections within the Department of State for the State of Florida. (Dkt. 1).

2. The complaint seeks declaratory and injunctive relief from the provisions of Ch. 2005–277, §§ 2 and 7, Laws of Florida, codified as §§ 97.021(36) and 97.0575 of the Florida Statutes. It also seeks nominal damages against the Defendants in their individual capacities. (Dkt. 1).

3. On June 6, 2006, the Plaintiffs filed a Motion for a Preliminary Injunction and Incorporated Memorandum of Law in Support of their Motion. (Dkt. 10). On June 21, 2006, the Defendants filed a Response to the Plaintiffs’ Motion for Preliminary Injunction and a Motion to Dismiss the Complaint. (Dkts. 23, 26).

The Parties

4. The Plaintiffs include two nonprofit community organizations—the League of Women Voters and People Acting for Community Together (PACT)—three nonprofit labor union organizations—the Florida AFL-CIO; Council 79 of the American Federation of State, County, and Municipal Employees (AFSCME); and SEIU Florida Healthcare Union—and one named individual, Marilyn Wills, who is a member of plaintiff League of Women Voters. (Dkt. 1).

5. For some period of time, the League of Women Voters has engaged in political advocacy. Its Florida affiliate, the League of Women Voters of Florida, is a non-partisan, not-for-profit corporation with over 2,800 members and 27 independent local leagues across the state. (Plaintiffs’ Dec. 1 ¶¶ 5-9; TS2 30:4-19).

6. PACT is a nonprofit organization consisting of thirty-eight member organizations, including churches, synagogues, and public school parent associations.

PACT engages in political activity. (Plaintiffs' Dec. 9 ¶¶ 2, 9-16). PACT's member organizations represent over 100,000 individual members. (*Id.* ¶ 3.)

7. The Florida AFL-CIO is an association of labor unions comprising approximately 450 unions throughout Florida. (Plaintiffs' Dec. 5 ¶ 4). Its affiliated unions represent more than 500,000 active and retired paying members. (TS1 172:10-17). Cynthia Hall is the President and chief lobbyist of Florida AFL-CIO. (TS1 190:14-23; 197:4-21).

8. AFSCME Council 79 is an association of 90 local unions representing government employees in Florida. It has 20,000 members and represents about 250,000 individuals in bargaining units. Its primary mission is to represent the interests of the members of its bargaining unit in labor negotiations in the workplace. It also engages in political activity. (TS1 52). AFSCME is heavily regulated as a labor union. (TS1 50:15-25; 51).

9. SEIU Florida Healthcare Union ("SEIU FHU") is a local union of the Service Employees International Union and represents 13,000 private sector health care workers in 89 facilities across Florida. Dale Ewart is the Vice President of SEIU Florida Healthcare Union. (TS2 69:19—70:7). SEIU FHU is heavily regulated as a labor union.

10. Wills has been a member of the League of Women Voters for about thirty years and currently serves as the President of the Tallahassee League. (TS2 90:15-25).

The Voter Registration Process and Plaintiffs' Voter Registration Activities

11. Prior to 1995, voter registration applications in Florida could be collected only by state officials and individuals deputized by supervisors of elections as registrars. In 1993, Congress passed the National Voter Registration Act (NVRA), which went into

effect on January 1, 1994. In 1995, Florida implemented the NVRA and began permitting third-party groups to collect voter registration applications without first being deputized by a supervisor of elections. (TS1 165:22-166:4).

12. After a voter registration application is collected, it must be processed by state officials before a voter is registered to vote. (TS1 44:22). Only a supervisor of elections may officially complete the process by which a voter registration applicant is registered to vote. (TS1 45:3, 18-20).

13. Voter registration applications must be submitted to the state at least twenty-nine days before an election for the voter to be registered to vote in that election. (TS1 103:8-15).

14. In 2004, there was a substantial increase in the number of voter registration applications submitted nationwide. (TS1 71:23-25). In 2004 in Florida, there were over 2.8 million new voter registration applications submitted. (Defendants' Exh. 5.) In 2000, there were only approximately 1.8 million new applications submitted in Florida. (Defendants' Exh. 5.)

15. Applications may be submitted at any time during the year, but more applications by far are submitted immediately before book-closing dates than during any other period of the year. (TS1 74:12-14; TS2 138:13-23). Because there was a substantial increase in overall applications in 2004, there was a substantial increase in the number of applications submitted immediately before the 2004 book-closing dates. (TS1 74:19-25).

16. Donna Miller, NVRA Director for the Division of Elections, does not know whether political parties submitted any voter registration applications after the book-closing date in 2004. (TS2 150, 3-6).

17. While at the same time collecting voter registration applications, Wills and the League of Women Voters collected petitions relating to proposed constitutional amendment to create an independent redistricting commission. (TS2 95:12—96:6). Wills and the League of Women Voters submitted the petitions to the sponsor of the constitutional amendment, which sponsor was located in Tampa. They submitted voter registration applications, on the other hand, directly to voter registration officials. (TS2 100:5—101:19). The Tallahassee League also sponsored a ballot initiative petition to change the date of the election of city commissioners. (TS2 80).

18. After collecting voter registration applications, some Plaintiffs routinely collect the personal data on the applications by photocopying the applications. (TS1 53:15-18.)

Effect of Challenged Legislation on Plaintiffs

19. Notwithstanding the challenged legislation, the League will continue to advocate for improved voter registration and other issues. (TR2 50:23-51:3, 15-25). The League employs lobbyists to represent its interests before the Florida Legislature. (TR2 61:1-9).

20. AFSCME operates a sophisticated political advocacy program. In recent years, AFSCME has participated in the political process by, for example, contributing \$100,000 to the Association of Community Organization for Reform Now (ACORN), a political advocacy organization, to support a campaign to place a minimum wage

initiative on the ballot. (TS1 127:17-18). In addition, AFSCME communicates its political message to its members through a year-round communications program, consisting of personal contact, telephone and facsimile contacts, e-mails, occasionally radio advertising, and rarely television advertising. (TS1 130:18—132:21). AFSCME employs a communications director. (TS1 130:14).

21. Notwithstanding the challenged legislation, SEIU continues to advocate its political ideas, especially in the area of health care, and it makes campaign contributions through a committee of continuous existence (CCE) to political candidates. (TS2 79:18—80:18). SEIU employs lobbyists, and it lobbies the state government extensively. It organizes its members in grassroots advocacy in support of candidates, such as letter writing, making phone calls, volunteering for candidates, and contributing to the union's CCE. (TS2 81:11-18).

22. Notwithstanding the challenged legislation, PACT continues to advocate its political ideas, especially in the areas of education, immigration, healthcare, and affordable housing. (TS2 18:2-10; 23:6-11).

23. Notwithstanding the challenged legislation, the AFL-CIO continues to advocate in favor of its political ideas. (TS1 189-196).

The Challenged Legislation

24. During its 2005 regular session, the Florida Legislature enacted Chapter 2005-277 to regulate, among other things, the handling and submission of voter registration applications by third-party organizations, excluding political parties. On June 20, 2005, Governor Bush signed Chapter 2005-277 into law. It took effect on January 1, 2006.

25. To date, thirteen third-party voter registration organizations have registered with the Division of Elections under the new law. (TS 134:21—135:4).

26. The State of Florida has interests in protecting the rights of its citizens to register and vote, in promoting administrative efficiency with respect to voter registration and related elections issues, and reducing fraud. (Plaintiffs Exh. 5 ¶¶ 11-12).

Respectfully submitted this 7th day of August, 2006.



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