

## NORTH CAROLINA - VOTER IDENTIFICATION

In June 2013 the United States Supreme Court determined in *Shelby County v. Holder*, that Congress could devise a new formula to determine which states should be subject to the requirements of preclearance by the United States Department of Justice when implementing changes to voter identification or registration laws. The Court further explained that without congressional action, no state or county is required to obtain federal approval before implementing new voting laws, which effectively nullified the portion of the Voting Rights Act of 1965 (VRA) requiring approval from the United States Department of Justice or a federal court before making changes. Prior to the decision in *Shelby County v. Holder*, North Carolina had been one of nine states with a history of racial discrimination requiring it to acquire federal approval prior to taking legislative action.

### NORTH CAROLINA HOUSE BILL NO. 589

In July 2013 North Carolina passed House Bill No. 589, which implemented new photo identification rules, reduced the number of days for early voting, prohibited people from registering and voting on the same day, stopped ballots cast in the wrong precinct from being counted, ended the practice of preregistering teenagers before they turned 18 years of age, expanded allowable poll observers and voter challenges, and eliminated the discretion of county boards of elections from keeping the polls open an additional hour on election day in extraordinary circumstances. The intent of the bill was to combat voter fraud and preserve the integrity of the voting system. As a result of the passing of the bill, various plaintiffs and the United States government sued North Carolina, alleging that House Bill No. 589 violated the equal protection provisions of the 14<sup>th</sup> Amendment of the United States Constitution and the VRA. The Department of Justice argued the North Carolina law violated Section 2 of the VRA, which prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in a language-minority group.

North Carolina House Bill No. 589 requires a voter's registration to be postmarked at least 25 days prior to election day, or if delivered in person or via fax or scanned document, received by the county board of elections at a time established by the board. The law provides for a potential voter to acquire an acceptable form of photo identification free of charge. To acquire a free voter identification card, an applicant must:

1. Be a registered voter or complete a voter registration application at the time of applying for a voter identification;
2. Sign a declaration stating that the registrant does not have an acceptable identification to vote;
3. Provide proof of North Carolina residency, or sign an affidavit of residency;
4. Provide a valid Social Security number; and
5. Prove age and identity by providing two supporting documents.

This particular portion of the law was challenged in federal court as an "immoral and unconstitutional burden on voters." Prior to the beginning of the trial, the North Carolina General Assembly passed an amendment allowing voters to cast provisional ballots if a voter is unable to obtain one of the specified forms of identification and the voter can show a "reasonable impediment" to obtaining it, including lack of transportation, illness, lack of a birth certificate, or work schedule.

### NORTH CAROLINA STATE CONFERENCE OF THE NAACP V. MCCRORY

In April 2016 United States District Judge Thomas Schroeder determined North Carolina could require voters to show approved photo identification at the polls because after the North Carolina General Assembly amended the identification requirement to include the reasonable impediment exception "North Carolina has provided legitimate state interests for its voter ID requirement and electoral system." The judge indicated the stated purpose of the identification requirement--to reduce voter fraud by ensuring the in-person voter and the registrant are the same person--served a legitimate state interest. Judge Schroeder found the plaintiffs "failed to show that any North Carolinian who wishes to vote faces anything other than the usual burdens of voting . . . The cumulative effect of the challenged provisions is no more than slight to modest," Judge Schroeder opined. The judge concluded any restriction on the fundamental right to vote must be justified, but the United States Supreme Court "has admonished there is a strong presumption that the acts of a duly-elected legislative body are valid."