



September 11, 2022

Via Electronic Mail

To: North Carolina State Board of Elections
430 N. Salisbury St.
Raleigh, NC 27603

From: Taxpayers For Honest Elections *on behalf of voters in Davidson, Duplin, Moore, Union, and Wayne counties*

CC:

Adrian Arnett	Laura Hodges
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Re: Review of Early Voting Plans

North Carolina State Board of Elections:

On September 9, 2022, Taxpayers For Honest Elections (“TFHE”)—on behalf of aggrieved voters—sent you proposed Alternative Plans and Memos in Support thereof with regards to the early voting period for the 2022 General Election for five counties. Specifically, for Davidson, Duplin, Moore, Union, and Wayne counties.

TFHE’s understanding is that the North Carolina State Board of Elections (“State Board”) intends to consider “non-unanimous one-stop early voting plans” for the 2022 General Election at the [State Board’s September 13, 2022 meeting](#). Among the counties for which TFHE provided Alternative Plans, the Davidson and Union county boards of elections were not able to reach unanimous plans and are on the agenda for consideration by the State Board along with eleven other non-unanimous counties.

However, what appears to be absent from the State Board’s agenda is any consideration of early voting plans for other counties.

Pursuant to North Carolina General Statute section 163-227.6, the State Board has a duty to review and approve the early voting plan **in each county regardless of whether it was unanimously approved or not**. That statute provides in subsection (a) that “a county board of elections by unanimous vote of all its members may provide for one or more sites in that county for absentee ballots to be applied for and cast [during early voting].” N.C.G.S. § 163-227.6(a). “Those sites *must be approved by the State Board* as part of a Plan for Implementation approved by both the county board of elections and by the State Board” *Id.* (emphasis added).

Moreover, “[a] county board of elections may *propose* in its Plan not to offer one-stop voting at the county board of elections office[.]” and instead, propose a site “reasonably proximate to the county board of elections office[.]” *Id.* (emphasis added). The State Board has referred to such sites as “in lieu of sites.” *See* NCSBE, [Numbered Memo 2020-13](#). When a county has proposed an in lieu of site, “the State Board *may approve that proposal* in a Plan *only if* the Plan includes at least one site reasonably proximate to the county board of elections office and *the State Board finds that the sites in the Plan as a whole provide adequate coverage of the county’s electorate.*” N.C.G.S. § 163-227.6(a). (emphasis added).

Additionally, in considering alternative plans, the State Board “shall take into consideration whether the Plan disproportionately favors any party, racial or ethnic group, or candidate.” *Id.* The Legislative Analysis division also offered the following in a summary of the 2019 Senate Bill 683 that added the disproportionate favorability language: “Additionally, in adopting a Plan for Implementation for a county for one or more early one-stop voting sites in that county, the State Board is required to take into consideration whether the Plan disproportionately favors any party, racial or ethnic group, or candidate.”¹

While consideration of “alternative” plans has generally meant consideration of minority and majority plans produced by the county board of elections, the State Board has routinely invited public comment to assist them in their deliberations.

¹ North Carolina General Assembly, Legislative Analysis Division, Bill Summary for Senate Bill 689 (2019), accessed at [https://dashboard.ncleg.gov/api/Services/BillSummary/2019/S683-SMBK-100\(sl\)-v-6](https://dashboard.ncleg.gov/api/Services/BillSummary/2019/S683-SMBK-100(sl)-v-6).

The State Board has done just that for the 2022 General Election and in fact, received quite a good number of comments.²

TFHE and the voters on whose behalf we have submitted Alternative Plans believe that the State Board is legally obligated to consider and approve an early voting plan for every county in North Carolina, regardless of whether the plan was unanimously approved.

At a minimum, the State Board is duty bound by N.C.G.S. § 163-227.6(a) to review early voting plans that propose the use of an in lieu of site. Upon examination, that statute directs that the State Board “may approve [a plan with an in lieu of site] . . . only if . . . the State Board *finds that the sites in the Plan as a whole provide adequate coverage of the county's electorate.*” N.C.G.S. § 163-227.6(a).

With regards to a plan with an in lieu of site, the statute clearly requires the State Board to (1) make findings about the plan and (2) approve or disapprove a plan. This is not merely an administrative task for employees of the State Board. Accordingly, TFHE believes that the State Board must, in an open meeting, make such findings and vote to approve, disapprove, or modify county plans with an in lieu of site.

TFHE respectfully requests the State Board do just that.

Sincerely,



Philip R. Thomas
President
Taxpayers For Honest Elections

² See NCSBE September 13, 2022 Meeting Website, One-Stop Plans, Public Comments, accessed at https://dl.ncsbe.gov/?prefix=State_Board_Meeting_Docs/2022-09-13/One-Stop%20Plans/Public%20Comments/.

An electronic copy of this Letter has been provided to the following:

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