

Press Release from the North Carolina NAACP, Clean Air Carolina, Forward Justice and Southern Environmental Law Center

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Civil Rights and Environmental Groups ask Court to Invalidate Four Constitutional Amendment Proposals

RALEIGH, N.C. – The North Carolina NAACP, Clean Air Carolina, Southern Environmental Law Center, and Forward Justice today filed a motion for Summary Judgment in their case challenging four proposed amendments to North Carolina’s constitution. In their brief to the court, the groups argue that the North Carolina General Assembly lacks the legal authority to amend our state’s constitution because the supermajority required to propose amendments is the product of the legislature’s illegal racial gerrymander.

The suit challenges four specific proposed amendments, relating to judicial vacancies, state board of ethics and elections, photo voter ID requirements, and income tax rates, each of which passed with just barely enough votes to clear the constitutionally mandated three-fifths majority.

If ratified, these proposed constitutional amendments would: (1) shift the power to fill judicial vacancies between elections from the Governor to the legislature; (2) create a new version of the state’s board of elections and ethics enforcement that is designed not to function, because it would be governed by a deadlocked four-to-four partisan board; (3) limit future, legitimately-elected legislatures’ power to set state income tax rates higher than seven-percent, which could limit funding for programs in support of those living in poverty, civil rights protections, and environmental enforcement; and (4) require individuals voting in person to present as yet unspecified photographic identification before voting that once again – without justification – threaten to target the ability of low-income voters, people of color, women, college students, and senior citizens to cast a ballot.

This summer, a three-judge panel found that two amendments were written in such a misleading and vague way that they were unconstitutional. Subsequently, the General Assembly re-wrote the two stricken amendments in a way that continues to mislead, and did not address the General Assembly’s lack of any claim to popular sovereignty following one of the most widespread racial gerrymanders ever encountered. The groups amended their lawsuit to include these two new, re-written amendments. If the lawsuit is successful, any amendments that obtain a majority vote on November 6 would not go into effect.

“Our constitution makes clear that it may only be amended via the will of the people of North Carolina,” said Kym Hunter, senior attorney with the Southern Environmental Law Center. “Our current General Assembly drew districts that segregated too many of our state’s African-American voters into an artificially small number of districts, diluting their voice. This illegal

body cannot be permitted to take the monumental step of radically changing our foundational document.”

“The NC NAACP fought and won against the General Assembly’s illegal use of race to create segregated voting districts and against the General Assembly’s first attempt to enshrine discriminatory photo voter Identification requirements,” said Rev. Dr. T. Anthony Spearman, NC NAACP State Conference president. “Today we continue our fight in the courts to stop this dishonest effort of an illegally seated General Assembly to sneak in dramatic changes to our state’s constitution on the eve of the first legal election for legislative seats in nearly seven years.”

“The question before the court goes directly to the heart of the people’s sole right to alter the North Carolina Constitution: does a North Carolina state legislature, whose supermajority rests on an unlawful racial gerrymander, and who therefore, does not represent the people, have the authority to place constitutional amendments on the ballot?,” attorney Leah Kang with Forward Justice, explained. “The answer, under North Carolina law, is no. These legislative defendants cannot lay claim to the popular sovereignty required to alter the constitution.”

“We hope the court will permanently stop this unprecedented attack on the balance of power in our state government, whose job it is to protect the health of residents from toxic air and contaminated water,” said June Blotnick, executive director of Clean Air Carolina. “This power grab will limit voters’ ability to demand action on environmental issues ranging from cleaning up GenX pollution to limiting coastal development as sea levels rise.”

Since establishing a supermajority via racially gerrymandered districts, North Carolina lawmakers have sought to entrench their power through pursuing disenfranchisement of voters, a program of gutting support for people of color, workers and those living in poverty. At the same time, this legislature has dismantled longstanding clean air and water safeguards and gutted funding for state environmental programs and agencies – despite growing voter demands on issues ranging from opposing offshore drilling to cleaning up coal ash and GenX pollution. Now, as the state is poised to have representation that more accurately reflects the needs of voters, the legislature is trying to thwart the will of voters and the courts to consolidate power.

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Founded in 1939, the NC NAACP is part of the nation's oldest and largest civil rights organization. Its branches throughout North Carolina are premier advocates for civil rights in their communities, conducting voter mobilization and monitoring equal opportunity in the public and private sectors. The mission of the National Association for the Advancement of Colored People is to ensure the political, educational, social and economic equality of rights of all persons and to eliminate racial hatred and discrimination. www.naacpnc.org

Clean Air Carolina is a statewide nonprofit organization whose mission is to ensure cleaner air quality for all North Carolinians through education and advocacy and by working with our partners to reduce sources of pollution. www.cleanaircarolina.org

For more than 30 years, the Southern Environmental Law Center has used the power of the law to champion the environment of the Southeast. With more than 80 attorneys and nine offices across the region, SELC is widely recognized as the Southeast’s foremost environmental organization and regional leader. SELC works on a full range of environmental issues to protect our natural resources and the health and well-being of all the people in our region. www.SouthernEnvironment.org

Forward Justice is a nonpartisan law, policy and strategy center dedicated to advancing racial, social, and economic justice in the U.S. South. Our work catalyzes success for social movements and expands opportunities for people affected by injustice. www.ForwardJustice.org