

January 24, 2019

The Honorable Wm. Weston J. Newton, Chairman  
House Legislative Oversight Committee  
228 Blatt Building  
Columbia, SC 29201

Dear Chairman Newton:

The State Election Commission (SEC) recently submitted its 2018 Completed Request for Information to the Legislative Oversight Committee (the "Committee"). At the time of submission, the SEC agreed with the Committee's recommendation that the SEC revise the S.C. Voter Registration Mail Application ("S.C. Form") to include a "Yes" and "No" checkbox next to each voter eligibility qualification. After further research, however, the SEC is of the opinion legislation is needed to effectively implement such changes.

Currently, federal and state laws require mail voter registration forms – whether the National Mail Voter Registration Form ("National Form")<sup>1</sup> developed by the Election Assistance Commission or the S.C. Form<sup>2</sup> – to specify each eligibility requirement and contain an attestation or affirmation that the applicant meets such requirements under penalty of perjury. See 52 U.S.C. § 20508; S.C. Code § 7-5-170(2). The Help America Vote Act requires the National Form to include two universal questions – "Are you a citizen of the United States of America?" and "Will you be 18 years of age on or before election day?" – followed by "Yes" and "No" checkboxes. 52 U.S.C. § 21083(b)(4). Since federal law allows states to also develop their own mail voter registration forms which must generally meet the same requirements as the National Form,<sup>3</sup> these same questions and checkboxes are included on the S.C. Form.

The addition of mandatory "Yes" and "No" checkboxes next to each individual eligibility requirement on the S.C. Form would exceed the minimum requirements for mail voter registration forms under both federal and state law. It would also have the

<sup>1</sup> The National Form is available on the EAC's website at: <https://www.eac.gov/voters/national-mail-voter-registration-form/>.

<sup>2</sup> The S.C. Form is available on the SEC's website at: <https://www.scvotes.org/south-carolina-voter-registration-information>.

<sup>3</sup> See 52 U.S.C. § 20505(a) (states must accept National Form for registration of voters in elections for Federal office, and may also develop their own forms meeting criteria stated in § 20508(b)).

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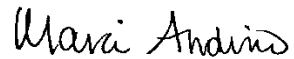
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effect of creating a new, additional basis for the rejection of registration applications that will likely be met with opposition from voters and voter advocacy groups, including allegations of voter suppression and constitutional or other legal challenges. Thus, the addition of such checkboxes as a result of a policy decision made by the SEC could have the unintended consequence of creating more registration issues than it resolves. If mandated by the General Assembly to further a legitimate state interest, however, the addition of such checkboxes may better withstand any such legal or constitutional challenges.

Sincerely,

A handwritten signature in cursive script that reads "Marci Andino".

Marci Andino  
Executive Director