



**Judicial
Watch**
*Because no one
is above the law!*

February 6, 2012

VIA CERTIFIED MAIL

The Honorable Kurt S. Browning
Florida Secretary of State
Room 316, R.A. Gray Building
Tallahassee, FL 32399-0250

Dr. Gisela Salas
Director, Florida Division of Elections
Room 316, R.A. Gray Building
Tallahassee, FL 32399-0250

Re: Inquiry into Florida's Compliance with Section 8 of the National Voter Registration Act, 42 U.S.C. § 1973gg-6

Dear Secretary Browning and Dr. Salas:

We are writing to inquire as to whether Florida is complying with Section 8 of the National Voter Registration Act ("NVRA"). As you know, the NVRA requires states to maintain accurate lists of eligible voters for use in conducting elections. However, it appears that your state may be failing to maintain accurate eligible voter lists. We understand that Florida law may delegate some responsibility for compliance with the NVRA to the counties of Florida.¹ However, before we contact the counties directly, we would like to give you the opportunity to clarify certain information in the hope that a further investigation on our part will be unnecessary.

Our primary concern is that Florida appears to be failing to remove from the eligible voter lists the names of people who have died or moved, as required by the NVRA. 42 U.S.C. § 1973gg-6(a)(4)(a). According to the U.S. Election Assistance Commission's 2011 NVRA Report to Congress, Florida only removed 4,450 dead people from its eligible voter lists during 2009 and 2010.² This is one of the lowest figures in the nation for that two-year period. We question why Florida – a state with one of the oldest populations – would have removed so few dead people from its lists compared to other states. Furthermore, according to data provided by the Florida Department of Health,³ the State of Florida experienced 172,509 deaths in the year

¹ Fla. Stat. §§ 98.075(3), 98.093.

² See Election Assistance Commission Report to the 112th Congress, June 30th, 2011, "The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2009-2010," p. 63, Table 4b., available at http://www.eac.gov/research/national_voter_registration_act_studies.aspx.

³ See Florida Department of Health website, "Charts" link at http://www.doh.state.fl.us/planning_eval/vital_statistics.

The Honorable Kurt S. Browning
Dr. Gisela Salas
February 6, 2012
Page Two

2010, and 169,854 deaths in 2009. A total of 4,450 dead people removed from the eligible voter lists during those two years therefore seem improbably low in light of the requirements of the NVRA.

In addition, based on our review of 2010 census data and publicly available eligible voter lists, it appears that there are more people registered to vote in St. Johns County, Okaloosa County, and Santa Rosa County than there are adults over the age of 18 living there. In other words, even if every single eligible voter in these counties were registered to vote, their eligible voter lists would still appear to contain the names of voters who have either moved out of the county or are dead. Furthermore, in several other Florida counties, the number of names on the eligible voter lists approaches 100% of the total voting age population. Particularly in light of the prior examples, these instances add to our concerns that registered voter lists in Florida have not been properly maintained.

As you may know, under Section 8 of the NVRA, states must "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters," including voters who become ineligible by reason of death or a change in residence of the registrant. 42 U.S.C. § 1973gg-6(a)(4). Section 8 also requires states to make available for public inspection "all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters." 42 U.S.C. § 1973gg-6(i)(1). Accordingly, we ask you to please respond to this letter in writing to advise us of the steps Florida has taken to comply with Section 8 of the NVRA during the period from January 2011 through today, and how many names have been removed from the eligible voter lists due to deaths or changes in residence of registrants. You are required to make such information available to us pursuant to the NVRA. 42 U.S.C. § 1973gg-6(i). We ask you to provide this information along with your written response no later than 30 days from today, or by March 7, 2012.

We look forward to receiving your response. Please feel free to contact me with any questions.

Sincerely,

JUDICIAL WATCH, INC.



Thomas J. Fitton
President

cc: J. Christian Adams, Esq.
Election Law Center