

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION**

Civil Action No. _____

RICHARD L. BISHOP; JACK L. MOORE;)
MICHAEL A. JOYCE ; and)
CHRISTOPHER R. DONAHOE)

Plaintiffs,)

v.)

GARY O. BARTLETT, Executive Director)
of the North Carolina State Board of)
Elections, in his official capacity; LARRY)
LEAKE, ROBERT CORDLE,)
GENEVIEVE C. SIMS, LORRAINE G.)
SHINN, and CHARLES WINFREE,)
Members of the State Board of Elections, in)
their official capacities; MICHAEL F.)
EASLEY, Governor of the State of North)
Carolina, in his official capacity; ROY)
COOPER, Attorney General of the State of)
North Carolina, in his official capacity;)
BEVERLY PERDUE, Lieutenant Governor)
of the State North Carolina, in her official)
capacity; JAMES BLACK, Speaker of the)
North Carolina House of Representatives,)
in his official capacity; ELAINE)
MARSHALL, Secretary of State of the)
State of North Carolina, in her official)
capacity; JANET PRUITT, Principal Clerk)
of the North Carolina Senate, in her official)
capacity; DENISE WEEKS, Principal Clerk)
of the North Carolina House of)
Representatives, in her official capacity,)

Defendants.)

**COMPLAINT
EQUITABLE RELIEF SOUGHT**

PRELIMINARY STATEMENT

Plaintiffs, Richard L. Bishop, Jack L. Moore, Michael A. Joyce, and Christopher R. Donahoe, for themselves and representing a class of registered voters in North Carolina as described hereinafter, requests this Court to order declaratory and equitable relief in the form of an injunction prohibiting the Defendants or others acting in concert with them from enforcing, administering or implementing SECTION 23 of North Carolina’s HB 1293/SB 725, titled “AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PERMIT CITIES AND COUNTIES TO INCUR OBLIGATIONS TO FINANCE THE PUBLIC PORTION OF CERTAIN ECONOMIC DEVELOPMENT PROJECTS” (“Amendment One”) and finding null, void and unenforceable the same and all election results related thereto on the grounds that same are violative of the North Carolina and United States Constitutions and have not been properly precleared under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973 *et seq.*

The action by the legislature, in passing HB 1293/SB 725, and the action by the defendants, in holding a referendum on the proposed amendment and subsequently certifying those election results, violates fundamental principles of due process and equal protection which are guaranteed under the Fourteenth Amendment of the U.S. Constitution and Article I, Section 19 of the North Carolina Constitution and under specific statutory requirements of the Voting Rights Act which require that changes to voting procedures in covered jurisdictions be precleared by the Attorney General of the United States.

JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1343(3) and (4), and 1357. It also has authority under 28 U.S.C. §§ 2201 and 2202 to grant declaratory relief and other appropriate

relief sought by Plaintiffs. This action challenges the constitutionality of North Carolina's HB 1293/SB 725, titled "AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PERMIT CITIES AND COUNTIES TO INCUR OBLIGATIONS TO FINANCE THE PUBLIC PORTION OF CERTAIN ECONOMIC DEVELOPMENT PROJECTS" and the constitutionality of the process by which Amendment One was submitted to voters.

2. Venue in this district is proper under 28 U.S.C. § 1391(b).

PARTIES

3. Plaintiff Richard L. Bishop is a citizen and resident of Cumberland County, North Carolina. At all times complained of, he has paid income and other taxes to the State and property and other taxes to Cumberland County. He is a duly registered voter in Long Hill precinct, and he voted in the 2004 general elections. He is African-American.

4. Jack L. Moore is a citizen and resident of Roanoke Rapids, North Carolina. He is a duly registered voter in Roanoke Rapids 10 precinct, and he voted in the 2004 general election. At all times complained of, he has paid income and other taxes to the State and property and other taxes to Roanoke Rapids and Halifax County.

5. Plaintiff Michael A. Joyce is a citizen and resident of Wake County, North Carolina. He is a duly registered voter in 04-12 precinct, and he voted in the 2004 general election. At all times complained of, he has paid income and other taxes to the State and property and other taxes to Wake County.

6. Plaintiff Christopher R. Donahoe is a citizen and resident of Chapel Hill, Orange County, North Carolina. He is a duly registered voter in Eastside precinct. At all times complained of, he has paid various taxes, other than income tax, to the State and other taxes to Orange County.

7. Defendant Gary Bartlett is a citizen and resident of the State of North Carolina; he is sued in his official capacity as the Executive Director of the State Board of Elections, in which capacity he is charged with administering the election laws of the State of North Carolina. The State Board of Elections is an agency of the State of North Carolina with its headquarters in Wake County.

8. Defendants Larry Leake, Genevieve C. Sims, Lorraine G. Shinn, Robert Cordle and Charles Winfree are each citizens and residents of the State of North Carolina; each is a current member of the State Board of Elections; each is sued in his or her official capacity as a member of the State Board of Elections which is charged with administering the election laws of the State of North Carolina and canvassing and determining the results of elections of statewide officers of the State and constitutional amendments submitted to the voters. The Defendants listed in Paragraphs numbered 7 and 8 of this Complaint are hereinafter referred to as the “Election Official Defendants.”

9. Defendant Michael F. Easley and Defendant Roy Cooper are each sued in their official capacity as the Governor and the Attorney General, respectively, of the State of North Carolina.

10. Defendant Beverly Perdue and Defendant James Black, are each sued in their official capacity as the Lieutenant Governor of North Carolina and Speaker of the North Carolina House of Representatives, respectively.

11. Defendant Elaine Marshall is sued in her official capacity as the Secretary of State of the State of North Carolina.

12. Defendant Janet Pruitt and Defendant Denise Weeks are each sued in their official capacity as the Principal Clerk of the North Carolina Senate and Principal Clerk of the North Carolina House of Representatives, respectively. The Defendants listed in Paragraphs numbered 10 through 12 of this Complaint are hereinafter referred to as the “Legislative Defendants.”

FACTUAL ALLEGATIONS

(Amendment Process and Ballot Language)

13. HB 1293/SB 725 was passed by the General Assembly of North Carolina on third reading on July 19, 2003 and signed by the Governor on August 7, 2003, a copy of which is attached as Exhibit A to this complaint and incorporated by reference.

14. Article I, Section 3 of the North Carolina State Constitution states that “The people of this State have the inherent, sole and exclusive right ... of altering ... their constitution.”

15. Article XIII, Section 4 sets forth one of only two ways by which the North Carolina Constitution can be amended, stating in part: “[a]mendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection.”

16. Article V, Section 4, prior to the election of November 2, 2004, stated, in pertinent part:

(2) Authorized purposes; two-thirds limitation. The General Assembly shall have no power to authorize any county, city or town, special district, or other unit of local government to contract debts secured by a pledge of its faith and credit unless approved by a majority of the qualified voters of the unit who vote thereon, except for the following purposes:

- (a) to fund or refund a valid existing debt;
- (b) to supply an unforeseen deficiency in the revenue;
- (c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;
- (d) to suppress riots or insurrections;
- (e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;
- (f) for purposes authorized by general laws uniformly applicable throughout the State, to the extent of two-thirds of the amount by which the unit's outstanding indebtedness shall have been reduced during the next preceding fiscal year.

17. HB 1293/SB 725 constituted an attempt by the General Assembly to amend the North Carolina Constitution by utilizing the process set forth in Article XIII, Section 4.

18. HB 1293/SB 725, Section 1 set forth the specific language of the amendment to the North Carolina Constitution and is hereinafter referred to as “Amendment One:”

Notwithstanding Section 4 of this Article, the General Assembly may enact general laws authorizing any county, city, or town to define territorial areas in the county, city, or town, and borrow money to be used to finance public activities associated with private development projects within the territorial areas, as provided in this section. The General Assembly shall set forth by statute the method for determining the size for the territorial area and the issuing unit. This method is conclusive. When a territorial area is defined pursuant to this section, the current assessed value of taxable real and personal property in the area shall be determined. Thereafter, property in the territorial area continues to be subject to taxation to the same extent and in like manner as property not in the territorial area, but the net proceeds of taxes levied on the excess, if any, of the assessed value of taxable real and personal property in the area at the time the area was defined may be set aside. The instruments of indebtedness shall be secured by these set-aside proceeds. The General Assembly may authorize a county, city, or town issuing these instruments of indebtedness to add, as additional security, revenues available to the issuing unit from sources other than the issuing unit’s exercise of its taxing power. As long as no revenues are pledged other than set-aside proceeds and the revenues authorized in the preceding sentence, these instruments of indebtedness may be issued without approval by referendum. The county, city, or town may not pledge any property tax revenues other than set-aside proceeds authorized in this section, or in any other manner pledge its full faith and credit unless a vote of the people is held as required by and in compliance with the requirements of Section 4 of this Article. Notwithstanding the provisions of Section 2 of this Article, the General Assembly may enact general laws authorizing a county, city, or town that has defined a territorial area pursuant to this section to assess property within the area at a minimum value if agreed to by the owner of the property.

19. Pursuant to HB 1293/SB 725, Section 24 the North Carolina State Board of Elections was required to submit the following question to the voters:

[] For [] Against

Constitutional amendment to promote local economic and community development projects by (i) permitting the General Assembly to enact general laws giving counties, cities, and towns the power to finance public improvements associated with qualified private economic and community improvements within development districts, as long as the financing is secured by the additional tax revenues resulting from the enhanced property valued within the development district and is not secured by a pledge of the local government's faith and credit or general taxing authority, which financing is not subject to a referendum; and (ii) permitting the owners of property in the development district to agree to a minimum tax value for their property, which is binding on future owners as long as the development district is in existence.

20. The actual language placed on the official state ballot and submitted to the voters of North Carolina on November 2, 2004 was not the actual and complete language of the proposed constitutional amendment.

21. The actual language which appeared on the official state ballot did not reference Article V, section 4 of the North Carolina State Constitution.

22. At least 60 days prior to an election in which an amendment to the North Carolina Constitution is to be voted on, the North Carolina Constitutional Amendments Publication Commission ("the Commission") must prepare an explanation of the amendment, revision, or new Constitution in "simple and commonly used language." N.C.G.S. § 147-54.10.

23. The Secretary of State is required to print the summary prepared by the

Commission, in a quantity determined by the Secretary of State. A copy shall be sent along with a news release to each county board of elections, and a copy shall be available to any registered voter or representative of the print or broadcast media making request to the Secretary of State. The Secretary of State may make copies available in such additional manner as he or she may determine. N.C.G.S. § 147-54.10.

24. Upon information and belief, on or about September 1, 2004, merely 62 days before the general election, the Commission pursuant to N.C.G.S. 147-54.10 adopted the following “Text of Explanations” relating to the proposed Amendment One:

The amendment would grant North Carolina local governments authority to issue bonds to pay for public improvements associated with private development projects within a defined development district created by the local government. The bonds could be used for public improvements such as streets, water and sewer service, redevelopment, land development for industrial or commercial purposes, airports, museums or parking facilities. Upon passage of this amendment, no additional voter referendum would be necessary to issue these bonds. The bonds would be repaid with the additional property tax revenues that would result from the enhanced property values on the improved property in those development districts. To ensure enough property tax revenues are generated to repay the bonds, the amendment allows the property owners within the development district to agree to a minimum value at which their property will be assessed from tax purposes.

If a majority of voters approves this amendment, it becomes effective immediately upon certification of its passage.

25. Upon information and belief, a copy of the above cited “Text of Explanations” was distributed to each county board of elections on a single occasion and was available on

the State's website, but was not otherwise distributed to the public.

26. Upon information and belief, the above cited "Text of Explanations" did not appear on the general election ballot on November 2, 2004. A copy of the general election ballot for Wake County and for Halifax County are attached hereto as Exhibits B and C, respectively and are incorporated by reference.

27. The full text of Amendment One did not appear on the general election ballot on November 2, 2004.

28. Upon information and belief, proponents of Amendment One, including a coalition known as North Carolinians for Jobs and Progress, encouraged voters to approve the amendment and in the weeks prior to the election ran advertisements in various media encouraging voters to approve the amendment on the grounds that Amendment One would help create jobs and foster economic development. These advertisements did not indicate that Amendment One, if passed, would abolish the voters' constitutional right to vote to approve or disapprove certain types of local government bond financing mechanisms.

29. Upon information and belief, the text of Amendment One was not circulated to the public and was available to the public only as it was published with the session laws of the General Assembly's 2003 term.

30. On November 2, 2004 the voters of North Carolina answered the question relating to Amendment One as follows: 1,504,383 (51.2%) for; 1,429,185 (48.8%) against.

31. On or about November 23, 2004, the North Carolina State Board of Elections certified the votes cast on Amendment One.

32. As a result of the above described action, Plaintiffs and all other North Carolina citizens have been deprived of their constitutional right under Article V, Section 4 of the North

Carolina Constitution to approve or disapprove certain types of local government bond financing mechanisms.

33. As citizens and residents of their respective counties, Plaintiffs and all other voters could be adversely affected by the incurrence of local debt pursuant to HB 1293/SB 725 and deprived of their constitutionally protected right to vote to approve or disapprove the bonds.

34. Upon information and belief, on or about January 20, 2004, Defendant Bartlett on behalf of the State of North Carolina submitted a letter, a copy of which is attached as Exhibit D and incorporated by reference, to the United States Attorney General regarding the proposed amendment. Upon information and belief, the State's preclearance submission failed to clearly describe changes in state law with respect to the right of voters to vote on the incurrence of local government debt.

35. Abolishing the right to vote on certain types of bonds, when such practice was previously required by the North Carolina Constitution, is a "standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964," which requires preclearance by the Attorney General under Section 5 of the Voting Rights Act of 1965, as amended.

(Utilization Of The Types Of Local Government Bond Financing Mechanisms Provided For In The Legislation Accompanying Amendment One)

36. On or about February 28, 2006, the City of Roanoke Rapids, North Carolina, by and through its City Council adopted a resolution establishing a development financing district to be known as "Carolina Crossroads Music and Entertainment District" ("Carolina Crossroads District") and requested approval of the Local Government Commission of the State Treasury Department to issue approximately \$12,885,000 in bonds to fund the purchase of an entertainment project within

the Carolina Crossroads District (“Roanoke Rapids Project”). A copy of the resolution is attached to this Complaint as Exhibit E and incorporated by reference.

37. On or about March 7, 2006, the Local Government Commission (“LGC”) approved the use of TIF bonds for the Roanoke Rapids Project. On June 28, 2006, \$3.75 million anticipation notes were issued in relation to the Roanoke Rapids Project. A copy of the LGC’s resolution approving the use of TIF bonds for the Roanoke Rapids Project is attached to this Complaint as Exhibit F and incorporated by reference. A copy of a letter from the LGC to the City of Roanoke Rapids confirming the approval and resolution is attached to this Complaint as Exhibit G and incorporated by reference.

38. Upon information and belief, the Local Government Commission is expected to give final approval of interest rates for bonds for the Roanoke Rapids Project in March or April of 2007 and the bonds will issue on or before May 15, 2007.

39. Upon information and belief no vote by the people has been held, or is scheduled to be held to permit voters to approve or disapprove the issuance of bonds to finance the Roanoke Rapids Project. Consequently, Plaintiff Moore and others similarly situated have been deprived of their right to vote on the issuance of local government debt instruments as required by Article V, Section 4 of the North Carolina Constitution, prior to the adoption of Amendment One.

40. Upon information and belief, the types of local government bond financing mechanisms provided for in the accompanying legislation included within HB 1293/SB 725 have been proposed in Raleigh, North Carolina, a city within Wake County, for the financing of a development and parking facility in the so-called “North Hills” area of Raleigh, North Carolina (“North Hills Project”).

41. Upon information and belief, the types of local government bond financing mechanisms provided for in the accompanying legislation included within HB 1293/SB 725 have been proposed in Charlotte, North Carolina, a city within Mecklenburg County, for a development and parking facility at or near Tyron Street in the so-called “Uptown” area of Charlotte, North Carolina. (“Tryon Street Project”)

42. Upon information and belief, the types of local government bond financing mechanisms provided for in the accompanying legislation included within HB 1293/SB 725 have been proposed in Chapel Hill, North Carolina, a city within Orange County, for a development and parking facility at or near Franklin Street at Chapel Hill, North Carolina. (“Chapel Hill Project”)

43. Upon information and belief, the types of local government bond financing mechanisms provided for in the accompanying legislation included within HB 1293/SB 725 have been proposed or are under consideration for a project in Kannapolis, North Carolina, a city within Cabarrus County, for a research facility or other development, known as the North Carolina Research Campus. (“N.C. Research Campus Project”). Upon information and belief, the amount of the bond issue under consideration for the N.C. Research Campus project is \$76 million.

44. Upon information and belief no vote will be submitted to the voters of the respective government units referenced in paragraphs 36-43 above to approve or disapprove any tax increment financing bonds proposed.

COUNT ONE

FAILURE TO PROPERLY PRECLEAR VOTING CHANGES

45. Plaintiffs incorporate by reference and reallege fully herein the contents of the foregoing paragraphs 1 through 44.

46. 42 U.S.C. § 1973c and 28 C.F.R., Part 51, Sec. 51.63 grant to private parties the right to

sue to obtain injunctive relief, to prevent any change in “any voting qualification or prerequisite to voting, or standard, practice or procedure . . . different from that in force or effect on November 1, 1964” from being implemented until it has been adequately submitted and precleared by the United States Attorney General.

47. A preclearance submission to the Attorney General should contain “information or documents to enable the Attorney General to make the required determination pursuant to Section 5 with respect to the submitted change affecting voting . . . (b) if the change affecting voting is not readily apparent on the face of the document . . . or is not embodied in a document, a clear statement of the change explaining the difference between the submitted change and prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and the proposed situation with respect to voting.” 28 C.F.R., Part 51, Sec. 51.27.

48. Sending a submission to the United States Attorney General which contains legislation with a general request for preclearance under Section 5 cannot be deemed a submission of the changes made by the enactment and cannot be deemed a submission of changes made by previous legislation which were independently subject to Section 5 preclearance. *McCain v. Lybrand*, 465 U.S. 236, 104 S.Ct. 1037, 79 L.Ed.2d 271 (1984).

49. Under N. C. Gen. Stat. § 120-30.9B, the Executive Director of the State Board of Elections (Defendant Bartlett) must seek approval as required by 42 U.S.C. § 1973c for all acts of the General Assembly that amend, delete, add to, modify or repeal any provision of Chapter 163 of the General Statutes which constitute a “change affecting voting” under Section 5 of the Voting Rights Act of 1965.

50. Upon information and belief, changes in the 1972 Constitution which altered the language of that document from that which existed on November 1, 1964, as embodied in HB

1293/SB 725 and in the summary which appeared on the general election ballot are not apparent on the face of the changes, nor have they been embodied in a document, clearly explaining the differences between the submitted change and prior law.

51. Upon information and belief, the letter submitted to the United States Attorney General accompanying HB 1293/SB 725 did not, on its face, disclose that the proposed amendment would abolish the state constitutional right to vote on a tax increment financing local bond initiative. Furthermore, the submission did not clearly explain or describe the differences between the submitted changes and all the statutes that would be altered by the implementation of this statute by the Election Official Defendants and the State Board of Elections.

52. Upon information and belief, the substance of HB 1293/SB 725 has not yet been properly and validly precleared by the United States Attorney General as of the date of the filing of this lawsuit.

53. The Plaintiff Bishop is a resident of Cumberland County, a county covered by Section 5 of the Voting Rights Act.

54. The Plaintiffs, and those voters similarly situated, will suffer irreparable harm in the event that HB 1293/SB 725 is implemented prior to its preclearance, in that voters will be denied the right to vote on tax increment financing local bond initiatives.

55. The Plaintiff requests that this Court declare the legal rights of the parties pursuant to the federal Declaratory Judgment Act, 28 U.S.C. §§ 2201-02 and issue an injunction preventing any of the Defendants from utilizing HB 1293/SB 725 unless and until precleared as provided by law.

COUNT TWO
VIOLATION OF DUE PROCESS CLAUSE OF THE
FOURTEENTH AMENDMENT

56. Plaintiffs incorporate by reference and reallege fully herein the contents of the foregoing paragraphs 1 through 55.

57. The method by which the General Assembly sought to amend the North Carolina Constitution, as described above, violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Due Process Clause of the North Carolina Constitution.

58. Upon information and belief, the language of the actual amendment was available to voters only by accessing the state's website. Thus, the language of the actual amendment was inadequately made available to the qualified voters of the State.

59. The actual amendment to the North Carolina Constitution was not submitted to the qualified voters of the State but instead an abbreviated summary with potentially misleading language was in fact submitted to the qualified voters of the State.

60. The language of the ballot question that was submitted to the qualified voters of the State was misleading and insufficient to adequately apprise voters that, if passed, the amendment would deprive them of their constitutionally given right to approve or disapprove the issuance of the bonds authorized by HB 1293/SB 725.

COUNT THREE

VIOLATION OF CIVIL RIGHTS UNDER SECTION 1983

MALADMINISTRATION OF AN ELECTION

61. Plaintiffs incorporate by reference and reallege fully herein the contents of the foregoing paragraphs 1 through 60.

62. The Plaintiff Bishop, and those voters similarly situated, have the protected rights

which are secured by the United States Constitution and the laws of the United States, which rights are being unlawfully denied or infringed by Defendants while acting under color of state law.

63. The Voting Rights Act, 42 U.S.C. §1973 *et seq.* creates an unambiguous federal right, secured by the laws of the United States, to have changes in voting practices and procedures precleared by the Attorney General of the United States for compliance with federal constitutional and statutory requirements.

64. The right of suffrage “is regarded as a fundamental political right, because preservative of all rights.” *Yick Wo v. Hopkins*, 118 U.S. 356, 370, 6 S.Ct. 1064, 071, 30 L.Ed. 220 (1886).

65. The summary of the amendment appearing on the ballots in the 2004 general election was confusing and misleading, and reached the point of patent and fundamental unfairness and a violation of the federal right of due process. The Fourteenth Amendment requires both procedural and substantive due process prior to the infringement of any liberty or property interest. The right of due process is a right secured by the Constitution of the United States.

66. The actions of the Defendants in failing to preclear HB 1293/SB 725 and to provide a clear summary of the proposed amendment is a deprivation of the above-said rights secured by the statutes and Constitution of the United States.

67. Without federal court action, the Plaintiff’s federal rights will be without recourse; Plaintiff has no other remedy at law.

68. The Plaintiff is entitled to declaratory and injunctive relief, preventing the Defendants and those acting in concert with them from authorizing the incurrence of public debt on the basis of Amendment One, or otherwise enforcing, administering or implementing HB 1293/SB 725.

COUNT FOUR

VIOLATION OF NORTH CAROLINA STATE CONSTITUTION

69. Plaintiffs incorporate by reference and reallege fully herein the contents of the foregoing paragraphs 1 through 68.

70. Plaintiffs allege or believe that the process by which the General Assembly of North Carolina and Defendants sought to amend the North Carolina Constitution as described above, violates Article I, Section 19 North Carolina Constitution for the following reasons:

71. That the actual amendment to the North Carolina Constitution was not submitted to the qualified voters of the State but instead an abbreviated summary with misleading language was in fact submitted to the qualified voters of the State.

72. That the language of the actual amendment was inadequately made available to the qualified voters of the State.

73. That the language of the ballot question that was submitted to the qualified voters of the State was misleading and insufficient to adequately apprise voters that, if passed, the amendment would deprive them of their constitutionally given right to approve or disapprove the issuance of the bonds authorized by HB 1293/SB 725.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ask that the Court:

A. Declare that HB 1293/SB 725 is null, void and unenforceable the same and all election results related thereto on the grounds that same violates the North Carolina Constitution.

B. Declare that HB 1293/SB 725 has not been precleared under Section 5 of the Voting Rights Act and finding null, void and unenforceable the same and all election results related thereto on the grounds that same have not been properly precleared under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973 *et seq.*

C. Issue an injunction prohibiting the Defendants or others acting in concert with them from enforcing, administering or implementing SECTION 23 of North Carolina's HB 1293/SB 725, titled "AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PERMIT CITIES AND COUNTIES TO INCUR OBLIGATIONS TO FINANCE THE PUBLIC PORTION OF CERTAIN ECONOMIC DEVELOPMENT PROJECTS."

D. Pursuant to 42 U.S.C. § 1988, award the Plaintiffs their costs, disbursements and reasonable attorney's fees incurred in bringing this action; and

E. Grant such other relief as the Court deems just and proper.

Dated: This the 6th day of November, 2006.

Respectfully Submitted,

/s/ Robert F. Orr

/s/ Jeanette Doran Brooks

Robert F. Orr (N.C. Bar No. 6798)

Pamela B. Cashwell (N.C. Bar No. 19542)

Jeanette Doran Brooks (N.C. Bar No. 29127)

225 Hillsborough Street, Suite 245

Raleigh, NC 27603

Telephone: (919) 838-5313

Facsimile: (919) 838-5316

Counsel for Richard L. Bishop, Jack L. Moore,
Michael A. Joyce, and Christopher R. Donahoe