

August 13, 2023

Speaker Tim Moore
Majority Leader Paul Newton
Representative Grey Mills
Representative Ted Davis
Senator Warren Daniels
Majority Leader Paul Newton

Dear Legislative Leaders and Elections Committee Chairs:

BPC Action (BPCA) applauds Representative Davis for his leadership on [House Bill \(HB\) 772](#). Poll observers are essential to [perceptions](#) of election fairness and transparency. HB772 offers critical guidance for election poll observation policy which, if implemented, will help restore public trust and confidence in North Carolina's elections.

HB772 marks a crucial step towards increased transparency by defining observation rules according to which election-related activity is taking place, clarifying the number of observers each party is allowed, and articulating the process for observer selection. This legislation goes a long way to advance transparency but falls short in consideration of potential administrative hurdles for election officials.

Drawing from the Bipartisan Policy Center [Task Force on Elections](#)' guidance on [Policy to Advance Good Faith Election Observation](#), BPCA respectfully urges North Carolina legislative leadership to consider prioritizing policy recommendations that minimize administrative challenges and maximize trust and accountability:

- **The privacy of certain voter information must be protected, voters must be able to vote free from intimidation, and election workers must be able to continue to do their jobs free from interference.** HB772 authorizes poll observers "to hear conversations between poll workers and voters." Allowing poll observers access to private conversations between poll workers and voters may create an intimidating environment for voters, deter them from asking simple questions, and cause doubt about the confidentiality of personal information.
- **Observers should be barred from viewing inside the voting booth or private voting area and distance requirements should not be overly rigid.** This legislation allows poll workers to be within five feet of voters, move freely around the voting enclosure, and hear conversations between election workers and voters. Requiring election officials to permit this close manner of observation may violate voters' right to privacy, particularly for individuals with disabilities who use statutorily required [curbside voting](#) options. Rather than permitting free movement around a voting site (limited only by a five foot distance requirement from voters), consider allowing local

officials to establish an observation zone within a voting site that facilitates reasonable observation without impeding voters' privacy.

- **Observers should be barred from photographing or videotaping voters or election workers.** This legislation allows partisan election observers to move freely about voting enclosures and gives them permission to make audio or video recordings. Policies that prioritize unfettered visibility, as opposed to contextualized transparency, in election operations risk cultivating distrust as events may be pulled out of context.
- **Election officials should have discretion in determining whether an observer is violating standards for acceptable behavior.** The due process standards articulated in the legislation must be balanced with election officials' discretionary judgment. Proposed legislation makes an election official who restricts observers from moving about the enclosure or videoing guilty of a class I misdemeanor. Election administrators should not face legal or [criminal penalties for unintentional administrative mistakes](#) when acting in good faith. Criminalizing good faith efforts by election officials may cause election administrators to hesitate in taking actions that protect voters and privacy. Additionally, criminalization of election administrators may accelerate turnover among North Carolina's election professionals and fuel the loss of institutional knowledge.
- **North Carolina should provide resources to local election offices—including funding and adaptable training modules—to support the training of observers, election workers and voters.** If enacted, HB772 will dramatically alter poll observation in North Carolina. Poll observation policy changes must coincide with [adequate resources](#) for training and public education to reduce misunderstandings on election day.

BPCA commends the sponsors of HB772 for their effort to clarify the appointment, access, and permitted activity of poll observers, and encourages the North Carolina legislature to consider modifications that will promote transparency without sacrificing functionality or the privacy and safety of voters and election administrators.

Sincerely,

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