

CARR & PALMER

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
ATTORNEYS AT LAW

10 NORTH PARKWAY SQUARE
4200 NORTHSIDE PARKWAY, N.W.
ATLANTA, GEORGIA 30327

June 28, 2012

Brian P. Kemp
Georgia Secretary of State
214 State Capitol
Atlanta, Georgia 30334

The Honorable Sam Olens
Office of the Attorney General
40 Capitol Square SW
Atlanta, GA 30334

Re: Referendum T- Splost Issue
July 31, 2012 Election

Gentlemen;

We have been retained to represent the Transportation Leadership Coalition, Jack Staver, chairman, which is a grass roots organization committed to educating the public generally as to the pros and cons of the above referenced referendum. Attached is, as best we can understand, the final version of the ballot for the July 31, 2012 election. The enclosure is the ballot for Cobb County but we are reliably informed that the language as to Referendum 1 is the same for all ballots statewide.

You will note that in compliance with O.C.G.A. 48-8-244 the authorized ballot text appears verbatim as follows:

- “() YES Shall Cobb County’s transportation system and the transportation network in this region and the state be improved by providing for a 1 percent
“() NO special district transportation sales and use tax for the purpose of transportation projects and programs for a period of ten years?”

However, additional language appears directly above the statutorily authorized language as follows:

“Provides for local transportation projects to create jobs and reduce traffic congestion with citizen oversight.”

In responding to a recent inquiry to Secretary of State Kemp as to the parentage of this odd language, he responded to an email inquiry on June 19 as follows:

“Frankly, I knew I would be criticized regardless of what we put on the ballot. I decided to go with the option I believe to be the most transparent and straight forward. The wording ended up being similar in most regions, but what I ultimately used was requested in writing by the round tables”.

Secretary Kemp’s general counsel Mr. Russo, further responded to this issue in an email:

“Thank you for the email, and I hope you are doing well too. All constitutional amendments and other questions placed on the ballot include a preamble. The language in the preamble is referenced in TIA, and it does not constitute electioneering or fall within O.C.G.A. 21-2-413 (d). Thanks again for contacting me about this, and I will make sure to pass your email.

Vincent R. Russo,
General Counsel.”

Mr. Russo at least appeared to be of the opinion that this was a constitutional amendment which, of course, it is not. He concluded without citation that “all other questions placed on the ballot include a preamble”. Secretary of State Kemp concluded that the preamble “is referenced in the original legislation”. Nowhere does that language appear in O.C.G.A. 48-8-240 *et. seq.* To the contrary, the ballot language was specifically directed by the legislature as noted above.

We would very much appreciate the earliest possible explanation as to the following:

1. Who drafted the introductory language?
2. Under what authority is it claimed that that language may be placed on the ballot?
3. Were private concerns involved in the preparation and submission of this language?
4. The identity of such private entities.

Concurrently herewith we are submitting a Freedom of Information Act request regarding these issues. Thank you for your kind cooperation.

Yours very truly,



W. Pitts Carr

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OFFICIAL ABSENTEE/PROVISIONAL/CHALLENGED BALLOT

**OFFICIAL DEMOCRATIC PARTY PRIMARY AND NONPARTISAN GENERAL ELECTION BALLOT
OF COBB COUNTY OF THE STATE OF GEORGIA
JULY 31, 2012**

To vote, blacken the Oval (●) next to the candidate of your choice. To vote for a person whose name is not on the ballot, manually WRITE his or her name in the write-in space provided, then blacken the corresponding Oval (●) next to the write-in space for that race. If you desire to vote YES or NO for a PROPOSED QUESTION, blacken the corresponding Oval (●). Use only blue or black pen or pencil.

Do not vote for more candidates than the number allowed for each specific office. Do not cross out or erase. If you erase or make other marks on the ballot or tear the ballot, your vote may not count.

If you change your mind or make a mistake, you may return the ballot by writing "Spoiled" across the face of the ballot and return envelope. You may then mail the spoiled ballot back to Cobb Elections, and you will be issued another official absentee ballot. Alternatively, you may surrender the ballot to the poll manager of an early voting site within Cobb County or the precinct to which you are assigned. You will then be permitted to vote in person.

*I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law. * (OCGA 21-2-284(e), 21-2-285(h) and 21-2-383(e))

<p>Notice to Voters</p> <p>This Sample Ballot contains all races in Cobb County, including races that you personally may not be eligible to vote for.</p> <p>To determine your correct JURISDICTION you should refer to your Voter Precinct Card or go to www.sos.georgia.gov/MVP</p>		<p>For State Representative in the General Assembly From the 53rd District (Vote for One)</p> <p><input type="radio"/> JASON ESTEVES</p> <p><input type="radio"/> SHEILA JONES (Incumbent)</p> <p><input type="radio"/> ROBERT PATILLO</p>
<p>For Public Service Commissioner (To Succeed Chuck Eaton) (Vote for One)</p> <p><input type="radio"/> STEPHEN OPPENHEIMER</p>	<p>For State Representative in the General Assembly From the 37th District (Vote for One)</p> <p><input type="radio"/> BILL BOLTON</p>	<p>For State Representative in the General Assembly From the 61st District (Vote for One)</p> <p><input type="radio"/> ROGER BRUCE (Incumbent)</p>
<p>For U.S. Representative in 113th Congress From the 6th Congressional District of Georgia (Vote for One)</p> <p><input type="radio"/> JEFF KAZANOW</p> <p><input type="radio"/> ROBERT MONTIGEL</p>	<p>For State Representative in the General Assembly From the 38th District (Vote for One)</p> <p><input type="radio"/> DAVID WILKERSON (Incumbent)</p>	<p>For Sheriff (Vote for One)</p> <p><input type="radio"/> GREGORY B. GILSTRAP</p>
<p>For U.S. Representative in 113th Congress From the 11th Congressional District of Georgia (Vote for One)</p> <p><input type="radio"/> PATRICK THOMPSON</p>	<p>For State Representative in the General Assembly From the 39th District (Vote for One)</p> <p>ALISHA THOMAS MORGAN (Incumbent)</p> <p>ANNE TAYLOR</p>	<p>For Cobb County Commissioner District 4 (Vote for One)</p> <p><input type="radio"/> LISA CUPID</p> <p><input type="radio"/> MONICA DELANCY</p> <p><input type="radio"/> RUTH E. NEGRON</p>
<p>For U.S. Representative in 113th Congress From the 13th Congressional District of Georgia (Vote for One)</p> <p><input type="radio"/> DAVID SCOTT (Incumbent)</p>	<p>For State Representative in the General Assembly From the 41st District (Vote for One)</p> <p><input type="radio"/> DIANA L. ECKLES</p> <p><input type="radio"/> JUSTIN O'DELL</p> <p><input type="radio"/> MICHAEL SMITH</p>	<p><input type="radio"/> MICHAEL RHETT</p> <p><input type="radio"/> CONNIE TAYLOR</p> <p><input type="radio"/> WOODY THOMPSON (Incumbent)</p>
<p>For State Senator From the 6th District (Vote for One)</p> <p><input type="radio"/> DOUG STONER (Incumbent)</p>	<p>For State Representative in the General Assembly From the 42nd District (Vote for One)</p> <p><input type="radio"/> STACEY EVANS (Incumbent)</p>	<p>For Cobb County School Board District 3 Term 4 Years (Vote for One)</p> <p><input type="radio"/> BOBBY J. ALLEN</p> <p><input type="radio"/> KARYN A. HARRISON</p> <p><input type="radio"/> DAVID MORGAN (Incumbent)</p>
<p>For State Senator From the 33rd District (Vote For One)</p> <p><input type="radio"/> STEVE THOMPSON (Incumbent)</p>	<p>For State Representative in the General Assembly From the 46th District (Vote for One)</p> <p><input type="radio"/> KEVIN "BIG KEV" WESTPHAL</p>	<p>For Cobb County School Board District 7 Term 4 Years (Vote for One)</p> <p><input type="radio"/> ALISON BARTLETT (Incumbent)</p>
<p>For State Senator From the 38th District (Vote for One)</p> <p><input type="radio"/> REGINALD CROSSLEY</p> <p><input type="radio"/> HORACENA TATE (Incumbent)</p>		

OFFICIAL ABSENTEE/PROVISIONAL/CHALLENGED BALLOT

**OFFICIAL DEMOCRATIC PARTY PRIMARY AND NONPARTISAN GENERAL ELECTION BALLOT
OF COBB COUNTY OF THE STATE OF GEORGIA
JULY 31, 2012**

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**I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law. (OCGA 21-2-284(e), 21-2-285(h) and 21-2-383(a))*

<p align="center">DEMOCRATIC PARTY QUESTIONS</p>	<p align="center">For Judge, Court of Appeals of Georgia (To Succeed Keith Blackwell) (Vote for One)</p> <p><input checked="" type="radio"/> KEITH R. BLACKWELL (Incumbent)</p> <p>Write-in</p>	<p align="center">For Judge, Superior Court of the Cobb Judicial Circuit (To Succeed Adele Grubbs) (Vote for One)</p> <p><input type="radio"/> ADELE GRUBBS (Incumbent)</p> <p>Write-in</p>
<p align="center">- 1 -</p> <p>Should the Georgia Constitution be amended to allow the state to override locally-elected school boards' decisions when it comes to the creation of charter schools in your county or city?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p align="center">For Judge, Court of Appeals of Georgia (To Succeed Michael P. Boggs) (Vote for One)</p> <p><input type="radio"/> MICHAEL P. BOGGS (Incumbent)</p> <p>Write-in</p>	<p align="center">For Judge, Superior Court of the Cobb Judicial Circuit (To Succeed S. Lark Ingram) (Vote for One)</p> <p><input type="radio"/> S. LARK INGRAM (Incumbent)</p> <p>Write-in</p>
<p align="center">- 2 -</p> <p>Do you support ending current practice permitting unlimited gifts from lobbyists to state legislators?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p align="center">For Judge, Court of Appeals of Georgia (To Succeed Stephen Louis A. Dillard) (Vote for One)</p> <p><input type="radio"/> STEPHEN DILLARD (Incumbent)</p> <p>Write-in</p>	<p align="center">For Judge, Superior Court of the Cobb Judicial Circuit (To Succeed Tain Kell) (Vote for One)</p> <p><input type="radio"/> TAIN KELL (Incumbent)</p> <p>Write-in</p>
<p align="center">- 3 -</p> <p>Should Georgia adopt an income tax credit for home energy costs to support the economic security of our families?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p align="center">For Judge, Court of Appeals of Georgia (To Succeed John J. Ellington) (Vote for One)</p> <p><input type="radio"/> JOHN J. ELLINGTON (Incumbent)</p> <p>Write-in</p>	<p align="center">For Judge, Superior Court of the Cobb Judicial Circuit (To Succeed Dorothy A. Robinson) (Vote for One)</p> <p><input type="radio"/> ROLAND R. CASTELLANOS</p> <p>VAN PEARLBERG</p> <p>GREG POOLE</p> <p>Write-in</p>
<p align="center">- 4 -</p> <p>Should Georgia reduce sales taxes on Made in Georgia products so as to support the growth of small businesses in our state?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p align="center">For Justice, Supreme Court of Georgia (To Succeed Carol W. Hunstein) (Vote for One)</p> <p><input type="radio"/> CAROL W. HUNSTEIN (Incumbent)</p> <p>Write-in</p>	<p align="center">For Judge, Superior Court of the Cobb Judicial Circuit (To Succeed J. Stephen (Steve) Schuster) (Vote for One)</p> <p><input type="radio"/> J. STEPHEN "STEVE" SCHUSTER (Incumbent)</p> <p>Write-in</p>
<p align="center">NONPARTISAN GENERAL ELECTION</p>	<p align="center">For Justice, Supreme Court of Georgia (To Succeed Harold D. Melton) (Vote for One)</p> <p><input type="radio"/> HAROLD D. MELTON (Incumbent)</p> <p>Write-in</p>	<p align="center">For Judge, Superior Court of the Cobb Judicial Circuit (To Succeed Mary E. Staley) (Vote for One)</p> <p><input type="radio"/> MARY E. STALEY (Incumbent)</p> <p>Write-in</p>
<p align="center">For Justice, Supreme Court of Georgia (To Succeed Hugh P. Thompson) (Vote for One)</p> <p><input type="radio"/> HUGH P. THOMPSON (Incumbent)</p> <p>Write-in</p>	<p align="center">For Judge, Court of Appeals of Georgia (To Succeed Herbert E. Phipps) (Vote for One)</p> <p><input type="radio"/> HERBERT PHIPPS (Incumbent)</p> <p>Write-in</p>	<p align="center">For Judge of State Court of Cobb County, Post 1 (Vote for One)</p> <p><input type="radio"/> MELODIE CLAYTON (Incumbent)</p> <p>Write-in</p>
<p align="center">For Justice, Supreme Court of Georgia (To Succeed Reuben Green) (Vote for One)</p> <p><input type="radio"/> REUBEN GREEN (Incumbent)</p> <p>Write-in</p>	<p align="center">For Judge, Superior Court of the Cobb Judicial Circuit (To Succeed Nathan J. Wade) (Vote for One)</p> <p><input type="radio"/> NATHAN J. WADE</p> <p>Write-in</p>	<p align="center">For Judge, Superior Court of the Cobb Judicial Circuit (To Succeed Melodie Clayton) (Vote for One)</p> <p><input type="radio"/> MELODIE CLAYTON (Incumbent)</p> <p>Write-in</p>

<p align="center">NONPARTISAN GENERAL ELECTION</p>	<p>For Judge of State Court of Cobb County, Division II Post 5 (Vote for One)</p> <p><input type="radio"/> ERIC BREWTON (Incumbent)</p> <p><input type="radio"/></p> <p>Write-in</p>
<p>For Judge of State Court of Cobb County, Post 2 (Vote for One)</p> <p><input type="radio"/> MARIA GOLICK (Incumbent)</p> <p><input type="radio"/></p> <p>Write-in</p>	<p align="center">SPECIAL ELECTION Referendum 1</p>
<p>For Judge of State Court of Cobb County, Post 3 (Vote for One)</p> <p><input type="radio"/> IRMA B. GLOVER (Incumbent)</p> <p><input type="radio"/></p> <p>Write-in</p>	<p align="center">Atlanta Regional District T-SPOST (Vote for One)</p> <p>Provides for local transportation projects to create jobs and reduce traffic congestion with citizen oversight.</p> <p>Shall Cobb County's transportation system and the transportation network in this region and the state be improved by providing for a 1 percent special district transportation sales and use tax for the purpose of transportation projects and programs for a period of ten years?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>
<p>For Judge of State Court of Cobb County, Post 4 (Vote for One)</p> <p><input type="radio"/> KATHRYN J. TANKSLEY (Incumbent)</p> <p><input type="radio"/></p> <p>Write-in</p>	<p align="center">SPECIAL ELECTION</p>
<p>For Judge of State Court of Cobb County, Post 6 (Vote for One)</p> <p><input type="radio"/> TOBY PRODGERS (Incumbent)</p> <p><input type="radio"/></p> <p>Write-in</p>	<p align="center">Cobb County Sunday Alcohol Sales (Vote for One)</p> <p>Shall the governing authority of Cobb County, Georgia be authorized to permit and regulate package sales by retailers of malt beverages, wine, and distilled spirits on Sundays between the hours of 12:30 P.M. and 11:30 P.M.?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>
<p>For Judge of State Court of Cobb County, Post 7 (Vote for One)</p> <p><input type="radio"/> CARL W. BOWERS (Incumbent)</p> <p><input type="radio"/></p> <p>Write-in</p>	<p align="center">Marietta City Council Ward 4 (To Fill the Unexpired Term of Van Pearlberg, Resigned. Term Ending 12/31/2013) (Vote for One)</p> <p><input type="radio"/> ANDY MORRIS</p> <p><input type="radio"/> PATTI PEARLBERG</p> <p><input type="radio"/></p> <p>Write-in</p>
<p>For Judge of State Court of Cobb County, Division II Post 2 (Vote for One)</p> <p><input type="radio"/> LARRY BURKE</p> <p><input type="radio"/> GENE CLARK</p> <p><input type="radio"/> JOYETTE HOLMES</p> <p><input type="radio"/> MARSHA LAKE</p> <p><input type="radio"/></p> <p>Write-in</p>	<p align="center">Marietta School Board Ward 1 (To Fill the Unexpired Term of Logan Weber, Resigned. Term Ending 12/31/2013) (Vote for One)</p> <p><input type="radio"/> BRETT C. BITTNER</p> <p><input type="radio"/></p> <p>Write-in</p>
<p>For Judge of State Court of Cobb County, Division II Post 3 (Vote for One)</p> <p><input type="radio"/> ROB LEONARD (Incumbent)</p> <p><input type="radio"/></p> <p>Write-in</p>	

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10 NORTH PARKWAY SQUARE
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ATLANTA, GEORGIA 30327

June 28, 2012

Mr. Brian P. Kemp
Georgia Secretary of State
214 State Capitol
Atlanta, Georgia 30334

Re: Freedom of Information Action Request Pursuant To Secretary of State

Dear Mr. Kemp;

We have been retained to represent the Transportation Leadership Coalition, Jack Staver, chairman, which is a grass roots organization of Georgia citizens committed to educating the public generally as to the pros and cons of Referendum 1 on the July 31, 2012 ballot. This is submitted pursuant to O.C.G.A. 50-18-70 on behalf of the Transportation Leadership Coalition, Jack Staver, a citizen of Georgia, and on my behalf, I also being a citizen of the State of Georgia.

This request addresses the following language appearing on the ballot regarding special election referendum 1: "provides for local transportation projects to create jobs that reduced traffic congestion with citizen oversight".

The documents requested are as follows:

1. Each writing including email or other correspondence by the Secretary of State, or those acting on his behalf, regarding the above referenced language being placed on the ballot;
2. All correspondence to Secretary Of State, Brian P Kemp, or anyone acting on his behalf, regarding the above referenced language being placed on the ballot;
3. Any documents in the possession of the Secretary Of State, or those operating on his behalf, that addresses the legal authority for including such language on the ballot.

Yours very truly,


W. Pitts Carr

WPC/amg