

109TH CONGRESS
2^D SESSION

S. 2703

To amend the Voting Rights Act of 1965.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2006

Mr. SPECTER (for himself, Mr. LEAHY, Mr. FRIST, Mr. REID, Mr. GRASSLEY, Mr. KENNEDY, Mr. DEWINE, Mrs. FEINSTEIN, Mr. BROWNBACK, Mr. DURBIN, Mr. SCHUMER, Mr. WARNER, Mr. INOUE, Mr. HAGEL, Mr. KERRY, Mr. CHAFEE, Mr. AKAKA, Mr. ALLEN, Ms. LANDRIEU, Mr. OBAMA, Mr. SALAZAR, and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Voting Rights Act of 1965.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fannie Lou Hamer,
5 Rosa Parks, and Coretta Scott King Voting Rights Act
6 Reauthorization and Amendments Act of 2006”.

7 **SEC. 2. CONGRESSIONAL PURPOSE AND FINDINGS.**

8 (a) PURPOSE.—The purpose of this Act is to ensure
9 that the right of all citizens to vote, including the right

1 to register to vote and cast meaningful votes, is preserved
2 and protected as guaranteed by the Constitution.

3 (b) FINDINGS.—The Congress finds the following:

4 (1) Significant progress has been made in elimi-
5 nating first generation barriers experienced by mi-
6 nority voters, including increased numbers of reg-
7 istered minority voters, minority voter turnout, and
8 minority representation in Congress, State legisla-
9 tures, and local elected offices. This progress is the
10 direct result of the Voting Rights Act of 1965.

11 (2) However, vestiges of discrimination in vot-
12 ing continue to exist as demonstrated by second gen-
13 eration barriers constructed to prevent minority vot-
14 ers from fully participating in the electoral process.

15 (3) The continued evidence of racially polarized
16 voting in each of the jurisdictions covered by the ex-
17 piring provisions of the Voting Rights Act of 1965
18 demonstrates that racial and language minorities re-
19 main politically vulnerable, warranting the continued
20 protection of the Voting Rights Act of 1965.

21 (4) Evidence of continued discrimination in-
22 cludes—

23 (A) the hundreds of objections interposed,
24 requests for more information submitted fol-
25 lowed by voting changes withdrawn from con-

1 sideration by jurisdictions covered by the Voting
2 Rights Act of 1965, and section 5 enforcement
3 actions undertaken by the Department of Jus-
4 tice in covered jurisdictions since 1982 that
5 prevented election practices, such as annex-
6 ation, at-large voting, and the use of multi-
7 member districts, from being enacted to dilute
8 minority voting strength;

9 (B) the number of requests for declaratory
10 judgments denied by the United States District
11 Court for the District of Columbia;

12 (C) the continued filing of section 2 cases
13 that originated in covered jurisdictions; and

14 (D) the litigation pursued by the Depart-
15 ment of Justice since 1982 to enforce sections
16 4(e), 4(f)(4), and 203 of such Act to ensure
17 that all language minority citizens have full ac-
18 cess to the political process.

19 (5) The evidence clearly shows the continued
20 need for Federal oversight in jurisdictions covered
21 by the Voting Rights Act of 1965 since 1982, as
22 demonstrated in the counties certified by the Attor-
23 ney General for Federal examiner and observer cov-
24 erage and the tens of thousands of Federal observers

1 that have been dispatched to observe elections in
2 covered jurisdictions.

3 (6) The effectiveness of the Voting Rights Act
4 of 1965 has been significantly weakened by the
5 United States Supreme Court decisions in *Reno v.*
6 *Bossier Parish II* and *Georgia v. Ashcroft*, which
7 have misconstrued Congress' original intent in en-
8 acting the Voting Rights Act of 1965 and narrowed
9 the protections afforded by section 5 of such Act.

10 (7) Despite the progress made by minorities
11 under the Voting Rights Act of 1965, the evidence
12 before Congress reveals that 40 years has not been
13 a sufficient amount of time to eliminate the vestiges
14 of discrimination following nearly 100 years of dis-
15 regard for the dictates of the 15th amendment and
16 to ensure that the right of all citizens to vote is pro-
17 tected as guaranteed by the Constitution.

18 (8) Present day discrimination experienced by
19 racial and language minority voters is contained in
20 evidence, including the objections interposed by the
21 Department of Justice in covered jurisdictions; the
22 section 2 litigation filed to prevent dilutive tech-
23 niques from adversely affecting minority voters; the
24 enforcement actions filed to protect language minori-
25 ties; and the tens of thousands of Federal observers

1 dispatched to monitor polls in jurisdictions covered
2 by the Voting Rights Act of 1965.

3 (9) The record compiled by Congress dem-
4 onstrates that, without the continuation of the Vot-
5 ing Rights Act of 1965 protections, racial and lan-
6 guage minority citizens will be deprived of the oppor-
7 tunity to exercise their right to vote, or will have
8 their votes diluted, undermining the significant gains
9 made by minorities in the last 40 years.

10 **SEC. 3. CHANGES RELATING TO USE OF EXAMINERS AND**
11 **OBSERVERS.**

12 (a) USE OF OBSERVERS.—Section 8 of the Voting
13 Rights Act of 1965 (42 U.S.C. 1973f) is amended to read
14 as follows:

15 “SEC. 8. (a) Whenever—

16 “(1) a court has authorized the appointment of
17 observers under section 3(a) for a political subdivi-
18 sion; or

19 “(2) the Attorney General certifies with respect
20 to any political subdivision named in, or included
21 within the scope of, determinations made under sec-
22 tion 4(b), unless a declaratory judgment has been
23 rendered under section 4(a), that—

24 “(A) the Attorney General has received
25 written meritorious complaints from residents,

1 elected officials, or civic participation organiza-
2 tions that efforts to deny or abridge the right
3 to vote under the color of law on account of
4 race or color, or in contravention of the guaran-
5 tees set forth in section 4(f)(2) are likely to
6 occur; or

7 “(B) in the Attorney General’s judgment
8 (considering, among other factors, whether the
9 ratio of nonwhite persons to white persons reg-
10 istered to vote within such subdivision appears
11 to the Attorney General to be reasonably attrib-
12 utable to violations of the 14th or 15th amend-
13 ment or whether substantial evidence exists that
14 bona fide efforts are being made within such
15 subdivision to comply with the 14th or 15th
16 amendment), the assignment of observers is
17 otherwise necessary to enforce the guarantees
18 of the 14th or 15th amendment;

19 the Director of the Office of Personnel Management
20 shall assign as many observers for such subdivision
21 as the Director may deem appropriate.

22 “(b) Except as provided in subsection (c), such ob-
23 servers shall be assigned, compensated, and separated
24 without regard to the provisions of any statute adminis-
25 tered by the Director of the Office of Personnel Manage-

1 ment, and their service under this Act shall not be consid-
2 ered employment for the purposes of any statute adminis-
3 tered by the Director of the Office of Personnel Manage-
4 ment, except the provisions of section 7324 of title 5,
5 United States Code, prohibiting partisan political activity.

6 “(c) The Director of the Office of Personnel Manage-
7 ment is authorized to, after consulting the head of the ap-
8 propriate department or agency, designate suitable per-
9 sons in the official service of the United States, with their
10 consent, to serve in these positions.

11 “(d) Observers shall be authorized to—

12 “(1) enter and attend at any place for holding
13 an election in such subdivision for the purpose of ob-
14 serving whether persons who are entitled to vote are
15 being permitted to vote; and

16 “(2) enter and attend at any place for tab-
17 ulating the votes cast at any election held in such
18 subdivision for the purpose of observing whether
19 votes cast by persons entitled to vote are being prop-
20 erly tabulated.

21 “(e) Observers shall investigate and report to the At-
22 torney General, and if the appointment of observers has
23 been authorized pursuant to section 3(a), to the court.”.

1 (b) MODIFICATION OF SECTION 13.—Section 13 of
2 the Voting Rights Act of 1965 (42 U.S.C. 1973k) is
3 amended to read as follows:

4 “SEC. 13. (a) The assignment of observers shall ter-
5 minate in any political subdivision of any State—

6 “(1) with respect to observers appointed pursu-
7 ant to section 8 or with respect to examiners cer-
8 tified under this Act before the date of the enact-
9 ment of the Fannie Lou Hamer, Rosa Parks, and
10 Coretta Scott King Voting Rights Act Reauthoriza-
11 tion and Amendments Act of 2006, whenever the At-
12 torney General notifies the Director of the Office of
13 Personnel Management, or whenever the District
14 Court for the District of Columbia determines in an
15 action for declaratory judgment brought by any po-
16 litical subdivision described in subsection (b), that
17 there is no longer reasonable cause to believe that
18 persons will be deprived of or denied the right to
19 vote on account of race or color, or in contravention
20 of the guarantees set forth in section 4(f)(2) in such
21 subdivision; and

22 “(2) with respect to observers appointed pursu-
23 ant to section 3(a), upon order of the authorizing
24 court.

1 “(b) A political subdivision referred to in subsection
2 (a)(1) is one with respect to which the Director of the Cen-
3 sus has determined that more than 50 per centum of the
4 nonwhite persons of voting age residing therein are reg-
5 istered to vote.

6 “(c) A political subdivision may petition the Attorney
7 General for a termination under subsection (a)(1).”.

8 (c) REPEAL OF SECTIONS RELATING TO EXAM-
9 INERS.—Sections 6, 7, and 9 of the Voting Rights Act
10 of 1965 (42 U.S.C. 1973d, 1973e and 1973g) are re-
11 pealed.

12 (d) SUBSTITUTION OF REFERENCES TO “OBSERV-
13 ERS” FOR REFERENCES TO “EXAMINERS”.—

14 (1) Section 3(a) of the Voting Rights Act of
15 1965 (42 U.S.C. 1973a(a)) is amended by striking
16 “examiners” each place it appears and inserting
17 “observers”.

18 (2) Section 4(a)(1)(C) of the Voting Rights Act
19 of 1965 (42 U.S.C. 1973b(a)(1)(C)) is amended by
20 inserting “or observers” after “examiners”.

21 (3) Section 12(b) of the Voting Rights Act of
22 1965 (42 U.S.C. 1973j(b)) is amended by striking
23 “an examiner has been appointed” and inserting “an
24 observer has been assigned”.

1 (4) Section 12(e) of the Voting Rights Act of
2 1965 (42 U.S.C. 1973j(e)) is amended—

3 (A) by striking “examiners” and inserting
4 “observers”; and

5 (B) by striking “examiner” each place it
6 appears and inserting “observer”.

7 (e) CONFORMING CHANGES RELATING TO SECTION
8 REFERENCES.—

9 (1) Section 4(b) of the Voting Rights Act of
10 1965 (42 U.S.C. 1973b(b)) is amended by striking
11 “section 6” and inserting “section 8”.

12 (2) Subsections (a) and (c) of section 12 of the
13 Voting Rights Act of 1965 (42 U.S.C. 1973j(a) and
14 1973j(c)) are each amended by striking “7,”.

15 (3) Section 14(b) of the Voting Rights Act of
16 1965 (42 U.S.C. 1973l(b)) is amended by striking
17 “or a court of appeals in any proceeding under sec-
18 tion 9”.

19 **SEC. 4. RECONSIDERATION OF SECTION 4 BY CONGRESS.**

20 Paragraphs (7) and (8) of section 4(a) of the Voting
21 Rights Act of 1965 (42 U.S.C. 1973b(a)) are each amend-
22 ed by striking “Voting Rights Act Amendments of 1982”
23 and inserting “Fannie Lou Hamer, Rosa Parks, and
24 Coretta Scott King Voting Rights Act Reauthorization
25 and Amendments Act of 2006”.

1 **SEC. 5. CRITERIA FOR DECLARATORY JUDGMENT.**

2 Section 5 of the Voting Rights Act of 1965 (42
3 U.S.C. 1973c) is amended—

4 (1) by inserting “(a)” before “Whenever”;

5 (2) by striking “does not have the purpose and
6 will not have the effect” and inserting “neither has
7 the purpose nor will have the effect”; and

8 (3) by adding at the end the following:

9 “(b) Any voting qualification or prerequisite to vot-
10 ing, or standard, practice, or procedure with respect to
11 voting that has the purpose of or will have the effect of
12 diminishing the ability of any citizens of the United States
13 on account of race or color, or in contravention of the
14 guarantees set forth in section 4(f)(2), to elect their pre-
15 ferred candidates of choice denies or abridges the right
16 to vote within the meaning of subsection (a) of this sec-
17 tion.

18 “(c) The term ‘purpose’ in subsections (a) and (b)
19 of this section shall include any discriminatory purpose.

20 “(d) The purpose of subsection (b) of this section is
21 to protect the ability of such citizens to elect their pre-
22 ferred candidates of choice.”.

23 **SEC. 6. EXPERT FEES AND OTHER REASONABLE COSTS OF**
24 **LITIGATION.**

25 Section 14(e) of the Voting Rights Act of 1965 (42
26 U.S.C. 1973l(e)) is amended by inserting “, reasonable ex-

1 pert fees, and other reasonable litigation expenses” after
2 “reasonable attorney’s fee”.

3 **SEC. 7. EXTENSION OF BILINGUAL ELECTION REQUIRE-**
4 **MENTS.**

5 Section 203(b)(1) of the Voting Rights Act of 1965
6 (42 U.S.C. 1973aa–1a(b)(1)) is amended by striking
7 “2007” and inserting “2032”.

8 **SEC. 8. USE OF AMERICAN COMMUNITY SURVEY CENSUS**
9 **DATA.**

10 Section 203(b)(2)(A) of the Voting Rights Act of
11 1965 (42 U.S.C. 1973aa–1a(b)(2)(A)) is amended by
12 striking “census data” and inserting “the 2010 American
13 Community Survey census data and subsequent American
14 Community Survey data in 5-year increments, or com-
15 parable census data”.

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