

Union Calendar No. 265

109TH CONGRESS
2^D SESSION

H. R. 9

[Report No. 109-478]

To amend the Voting Rights Act of 1965.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2006

Mr. SENSENBRENNER (for himself, Mr. HASTERT, Ms. PELOSI, Mr. CONYERS, Mr. CHABOT, Mr. NADLER, Mr. WATT, Mr. LEWIS of Georgia, Mr. TOWNS, Mr. SCOTT of Georgia, Mrs. CHRISTENSEN, Mr. OWENS, Mr. CLYBURN, Ms. LEE, Mr. SCOTT of Virginia, Ms. LINDA T. SÁNCHEZ of California, Mr. JACKSON of Illinois, Mr. JEFFERSON, Ms. NORTON, Ms. KILPATRICK of Michigan, Mr. FATTAH, Ms. JACKSON-LEE of Texas, Ms. WATERS, Mr. HONDA, Mr. GONZALEZ, and Mrs. NAPOLITANO) introduced the following bill; which was referred to the Committee on the Judiciary

MAY 22, 2006

Additional sponsors: Mr. COBLE, Mr. VAN HOLLEN, Mr. BACHUS, Mr. FEENEY, Mr. JENKINS, Mr. HYDE, Mr. McDERMOTT, Mr. ROGERS of Alabama, Mr. HOYER, Mr. BISHOP of Georgia, Mr. AL GREEN of Texas, Ms. WATSON, Mr. CUMMINGS, Mrs. JONES of Ohio, Mr. THOMPSON of Mississippi, Mr. CLAY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MEEK of Florida, Mr. HASTINGS of Florida, Ms. CORRINE BROWN of Florida, Mr. WYNN, Mr. CLEAVER, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. BUTTERFIELD, Ms. CARSON, Ms. MCKINNEY, Ms. MOORE of Wisconsin, Mr. RANGEL, Mr. MEEKS of New York, Mr. PAYNE, Mr. FORD, Mr. CASE, Mr. RUSH, Ms. MILLENDER-McDONALD, Mr. LARSON of Connecticut, Mr. WILSON of South Carolina, Mr. SHAYS, Mr. HOLT, Mr. KELLER, Mr. HAYES, Mr. BARROW, Mr. FORBES, Mrs. MALONEY, Mr. CARDIN, Mr. WAXMAN, Mr. SERRANO, Mr. DAVIS of Florida, Ms. WASSERMAN SCHULTZ, Mr. HIGGINS, Ms. BERKLEY, Mr. PETERSON of Minnesota, Mr. PENCE, Mr. MELANCON, Mr. LANTOS, Mr. REYES, Mr. GEORGE MILLER of California, Mr. FILNER, Mr. ABERCROMBIE, Mr. UDALL of Colorado, Ms. VELÁZQUEZ, Mr. PRICE of North Carolina, Mr. ETHERIDGE, Mr. ISRAEL, Mr. KUCINICH, Mr. DAVIS of Tennessee, Mr.

PALLONE, Mr. SCHIFF, Mr. KENNEDY of Rhode Island, Mr. RUPPERSBERGER, Mr. DINGELL, Ms. ZOE LOFGREN of California, Mr. BERMAN, Mr. KENNEDY of Minnesota, Ms. SCHWARTZ of Pennsylvania, Ms. WOOLSEY, Mr. ISSA, Mr. ENGLISH of Pennsylvania, Mrs. WILSON of New Mexico, Mr. GREEN of Wisconsin, Mr. FRANK of Massachusetts, Mr. KILDEE, Mr. BROWN of Ohio, Mr. ALLEN, Mr. BRADY of Pennsylvania, Mr. DELAHUNT, Mr. GRIJALVA, Mrs. MILLER of Michigan, Mr. MORAN of Virginia, Mr. COSTELLO, Mr. FARR, Mr. BLUMENAUER, Ms. MCCOLLUM of Minnesota, Ms. SCHAKOWSKY, Ms. KAPTUR, Mr. MOORE of Kansas, Ms. SLAUGHTER, Mr. WEINER, Mr. DOGGETT, Mr. SPRATT, Mrs. DAVIS of California, Mr. SHERMAN, Mr. MEEHAN, Ms. ROYBAL-ALLARD, Ms. MATSUI, Mr. SABO, Mr. BOUSTANY, Mr. MCHUGH, Mr. REICHERT, Mr. BOYD, Mrs. CAPPS, Mr. DEFazio, Mrs. MCCARTHY, Mr. BOUCHER, Ms. SOLIS, Mr. LANGEVIN, Mr. CAPUANO, Mr. WEXLER, Mr. UDALL of New Mexico, Mr. COOPER, Mr. LEACH, Mr. LOBIONDO, Mr. STRICKLAND, Mr. WELLER, Mr. ORTIZ, Mr. SANDERS, and Mrs. BIGGERT

MAY 22, 2006

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 2, 2006]

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 Re-*
 6 *authorization 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 to*

1 *register to vote and cast meaningful votes, is preserved and*
2 *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 minor-*
6 *ity voters, including increased numbers of registered*
7 *minority voters, minority voter turnout, and minor-*
8 *ity representation in Congress, State legislatures, and*
9 *local elected offices. This progress is the direct result*
10 *of the Voting Rights Act of 1965.*

11 *(2) However, vestiges of discrimination in voting*
12 *continue to exist as demonstrated by second genera-*
13 *tion barriers constructed to prevent minority voters*
14 *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 followed*
25 *by voting changes withdrawn from consideration*

1 *by jurisdictions covered by the Voting Rights Act*
2 *of 1965, and section 5 enforcement actions un-*
3 *dertaken by the Department of Justice in covered*
4 *jurisdictions since 1982 that prevented election*
5 *practices, such as annexation, at-large voting,*
6 *and the use of multi-member districts, from*
7 *being enacted to dilute minority voting strength;*

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

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

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

18 *(5) The evidence clearly shows the continued*
19 *need for Federal oversight in jurisdictions covered by*
20 *the Voting Rights Act of 1965 since 1982, as dem-*
21 *onstrated in the counties certified by the Attorney*
22 *General for Federal examiner and observer coverage*
23 *and the tens of thousands of Federal observers that*
24 *have been dispatched to observe elections in covered*
25 *jurisdictions.*

1 (6) *The effectiveness of the Voting Rights Act of*
2 *1965 has been significantly weakened by the United*
3 *States Supreme Court decisions in Reno v. Bossier*
4 *Parish II and Georgia v. Ashcroft, which have mis-*
5 *construed Congress' original intent in enacting the*
6 *Voting Rights Act of 1965 and narrowed the protec-*
7 *tions afforded by section 5 of such Act.*

8 (7) *Despite the progress made by minorities*
9 *under the Voting Rights Act of 1965, the evidence be-*
10 *fore Congress reveals that 40 years has not been a suf-*
11 *ficient amount of time to eliminate the vestiges of dis-*
12 *crimination following nearly 100 years of disregard*
13 *for the dictates of the 15th amendment and to ensure*
14 *that the right of all citizens to vote is protected as*
15 *guaranteed by the Constitution.*

16 (8) *Present day discrimination experienced by*
17 *racial and language minority voters is contained in*
18 *evidence, including the objections interposed by the*
19 *Department of Justice in covered jurisdictions; the*
20 *section 2 litigation filed to prevent dilutive techniques*
21 *from adversely affecting minority voters; the enforce-*
22 *ment actions filed to protect language minorities; and*
23 *the tens of thousands of Federal observers dispatched*
24 *to monitor polls in jurisdictions covered by the Voting*
25 *Rights Act of 1965.*

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

8 **SEC. 3. CHANGES RELATING TO USE OF EXAMINERS AND**
9 **OBSERVERS.**

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

13 “SEC. 8. (a) *Whenever—*

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

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

22 “(A) *the Attorney General has received*
23 *written meritorious complaints from residents,*
24 *elected officials, or civic participation organiza-*
25 *tions that efforts to deny or abridge the right to*

1 *vote under the color of law on account of race or*
2 *color, or in contravention of the guarantees set*
3 *forth in section 4(f)(2) are likely to occur; or*

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

16 *the Director of the Office of Personnel Management*
17 *shall assign as many observers for such subdivision as*
18 *the Director may deem appropriate.*

19 *“(b) Except as provided in subsection (c), such observ-*
20 *ers shall be assigned, compensated, and separated without*
21 *regard to the provisions of any statute administered by the*
22 *Director of the Office of Personnel Management, and their*
23 *service under this Act shall not be considered employment*
24 *for the purposes of any statute administered by the Director*
25 *of the Office of Personnel Management, except the provisions*

1 of section 7324 of title 5, United States Code, prohibiting
2 partisan political activity.

3 “(c) The Director of the Office of Personnel Manage-
4 ment is authorized to, after consulting the head of the ap-
5 propriate department or agency, designate suitable persons
6 in the official service of the United States, with their con-
7 sent, to serve in these positions.

8 “(d) Observers shall be authorized to—

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

13 “(2) enter and attend at any place for tabulating
14 the votes cast at any election held in such subdivision
15 for the purpose of observing whether votes cast by per-
16 sons entitled to vote are being properly tabulated.

17 “(e) Observers shall investigate and report to the Attor-
18 ney General, and if the appointment of observers has been
19 authorized pursuant to section 3(a), to the court.”.

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

23 “SEC. 13. (a) The assignment of observers shall termi-
24 nate in any political subdivision of any State—

1 “(1) with respect to observers appointed pursu-
2 ant to section 8 or with respect to examiners certified
3 under this Act before the date of the enactment of the
4 *Fannie Lou Hamer, Rosa Parks, and Coretta Scott*
5 *King Voting Rights Act Reauthorization and Amend-*
6 *ments Act of 2006, whenever the Attorney General no-*
7 *tifies the Director of the Office of Personnel Manage-*
8 *ment, or whenever the District Court for the District*
9 *of Columbia determines in an action for declaratory*
10 *judgment brought by any political subdivision de-*
11 *scribed in subsection (b), that there is no longer rea-*
12 *sonable cause to believe that persons will be deprived*
13 *of or denied the right to vote on account of race or*
14 *color, or in contravention of the guarantees set forth*
15 *in section 4(f)(2) in such subdivision; and*

16 “(2) with respect to observers appointed pursu-
17 ant to section 3(a), upon order of the authorizing
18 court.

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

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

1 (c) *REPEAL OF SECTIONS RELATING TO EXAM-*
2 *INERS.*—Sections 6, 7, and 9 of the Voting Rights Act of
3 1965 (42 U.S.C. 1973d, 1973e and 1973g) are repealed.

4 (d) *SUBSTITUTION OF REFERENCES TO “OBSERVERS”*
5 *FOR REFERENCES TO “EXAMINERS”.*—

6 (1) *Section 3(a) of the Voting Rights Act of 1965*
7 *(42 U.S.C. 1973a(a)) is amended by striking “exam-*
8 *iners” each place it appears and inserting “observ-*
9 *ers”.*

10 (2) *Section 4(a)(1)(C) of the Voting Rights Act*
11 *of 1965 (42 U.S.C. 1973b(a)(1)(C)) is amended by in-*
12 *serting “or observers” after “examiners”.*

13 (3) *Section 12(b) of the Voting Rights Act of*
14 *1965 (42 U.S.C. 1973j(b)) is amended by striking “an*
15 *examiner has been appointed” and inserting “an ob-*
16 *server has been assigned”.*

17 (4) *Section 12(e) of the Voting Rights Act of*
18 *1965 (42 U.S.C. 1973j(e)) is amended—*

19 (A) *by striking “examiners” and inserting*
20 *“observers”; and*

21 (B) *by striking “examiner” each place it*
22 *appears and inserting “observer”.*

23 (e) *CONFORMING CHANGES RELATING TO SECTION*
24 *REFERENCES.*—

1 (1) *Section 4(b) of the Voting Rights Act of 1965*
2 *(42 U.S.C. 1973b(b)) is amended by striking “section*
3 *6” and inserting “section 8”.*

4 (2) *Subsections (a) and (c) of section 12 of the*
5 *Voting Rights Act of 1965 (42 U.S.C. 1973j(a) and*
6 *1973j(c)) are each amended by striking “7,”.*

7 (3) *Section 14(b) of the Voting Rights Act of*
8 *1965 (42 U.S.C. 1973l(b)) is amended by striking “or*
9 *a court of appeals in any proceeding under section*
10 *9”.*

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

12 *Paragraphs (7) and (8) of section 4(a) of the Voting*
13 *Rights Act of 1965 (42 U.S.C. 1973b(a)) are each amended*
14 *by striking “Voting Rights Act Amendments of 1982” and*
15 *inserting “Fannie Lou Hamer, Rosa Parks, and Coretta*
16 *Scott King Voting Rights Act Reauthorization and Amend-*
17 *ments Act of 2006”.*

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

19 *Section 5 of the Voting Rights Act of 1965 (42 U.S.C.*
20 *1973c) is amended—*

21 (1) *by inserting “(a)” before “Whenever”;*

22 (2) *by striking “does not have the purpose and*
23 *will not have the effect” and inserting “neither has*
24 *the purpose nor will have the effect”; and*

25 (3) *by adding at the end the following:*

1 “(b) Any voting qualification or prerequisite to voting,
2 or standard, practice, or procedure with respect to voting
3 that has the purpose of or will have the effect of diminishing
4 the ability of any citizens of the United States on account
5 of race or color, or in contravention of the guarantees set
6 forth in section 4(f)(2), to elect their preferred candidates
7 of choice denies or abridges the right to vote within the
8 meaning of subsection (a) of this section.

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

11 “(d) The purpose of subsection (b) of this section is
12 to protect the ability of such citizens to elect their preferred
13 candidates of choice.”.

14 **SEC. 6. EXPERT FEES AND OTHER REASONABLE COSTS OF**
15 **LITIGATION.**

16 Section 14(e) of the Voting Rights Act of 1965 (42
17 U.S.C. 1973l(e)) is amended by inserting “, reasonable ex-
18 pert fees, and other reasonable litigation expenses” after
19 “reasonable attorney’s fee”.

20 **SEC. 7. EXTENSION OF BILINGUAL ELECTION REQUIRE-**
21 **MENTS.**

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

1 **SEC. 8. USE OF AMERICAN COMMUNITY SURVEY CENSUS**

2 **DATA.**

3 *Section 203(b)(2)(A) of the Voting Rights Act of 1965*
4 *(42 U.S.C. 1973aa-1a(b)(2)(A)) is amended by striking*
5 *“census data” and inserting “the 2010 American Commu-*
6 *nity Survey census data and subsequent American Commu-*
7 *nity Survey data in 5-year increments, or comparable cen-*
8 *sus data”.*

9 **SEC. 9. STUDY AND REPORT.**

10 *The Comptroller General shall study the implementa-*
11 *tion, effectiveness, and efficiency of the current section 203*
12 *of the Voting Rights Act of 1965 and alternatives to the*
13 *current implementation consistent with that section. The*
14 *Comptroller General shall report the results of that study*
15 *to Congress not later than 1 year after the date of the enact-*
16 *ment of this Act.*

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