

Calendar No. 523

109TH CONGRESS
2D 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, Mr. MENENDEZ, Mr. NELSON of Florida, Ms. STABENOW, Mrs. CLINTON, Ms. MIKULSKI, Mr. KOHL, Mr. BIDEN, Mr. DODD, Ms. CANTWELL, Mr. BINGAMAN, Mr. LEVIN, Mr. FEINGOLD, Mr. BAYH, Mr. LIEBERMAN, Mr. JOHNSON, Mr. LAUTENBERG, Mrs. LINCOLN, Mr. JEFFORDS, Mr. SARBANES, Mr. BAUCUS, Mr. HARKIN, Mr. DORGAN, Mrs. BOXER, Mr. PRYOR, Mr. WYDEN, Mr. VOINOVICH, Mr. REED, Mr. DAYTON, Mr. ROCKEFELLER, Mrs. MURRAY, Mr. CARPER, Mr. BYRD, Mr. TALENT, Ms. SNOWE, Mr. NELSON of Nebraska, Ms. COLLINS, and Mr. CONRAD) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JULY 19, 2006

Reported by Mr. SPECTER, with an amendment

[Omit the part struck through and insert the part printed in *italic*]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fannie Lou Hamer,
3 Rosa Parks, ~~and Coretta Scott King~~ *Coretta Scott King*,
4 *and César E. Chávez* Voting Rights Act Reauthorization
5 and Amendments Act of 2006”.

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

7 (a) PURPOSE.—The purpose of this Act is to ensure
8 that the right of all citizens to vote, including the right
9 to register to vote and cast meaningful votes, is preserved
10 and protected as guaranteed by the Constitution.

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

12 (1) Significant progress has been made in elimi-
13 nating first generation barriers experienced by mi-
14 nority voters, including increased numbers of reg-
15 istered minority voters, minority voter turnout, and
16 minority representation in Congress, State legisla-
17 tures, and local elected offices. This progress is the
18 direct result of the Voting Rights Act of 1965.

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

23 (3) The continued evidence of racially polarized
24 voting in each of the jurisdictions covered by the ex-
25 piring provisions of the Voting Rights Act of 1965
26 demonstrates that racial and language minorities re-

1 main politically vulnerable, warranting the continued
2 protection of the Voting Rights Act of 1965.

3 (4) Evidence of continued discrimination in-
4 cludes—

5 (A) the hundreds of objections interposed,
6 requests for more information submitted fol-
7 lowed by voting changes withdrawn from con-
8 sideration by jurisdictions covered by the Voting
9 Rights Act of 1965, and section 5 enforcement
10 actions undertaken by the Department of Jus-
11 tice in covered jurisdictions since 1982 that
12 prevented election practices, such as annex-
13 ation, at-large voting, and the use of multi-
14 member districts, from being enacted to dilute
15 minority voting strength;

16 (B) the number of requests for declaratory
17 judgments denied by the United States District
18 Court for the District of Columbia;

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

21 (D) the litigation pursued by the Depart-
22 ment of Justice since 1982 to enforce sections
23 4(e), 4(f)(4), and 203 of such Act to ensure
24 that all language minority citizens have full ac-
25 cess to the political process.

1 (5) The evidence clearly shows the continued
2 need for Federal oversight in jurisdictions covered
3 by the Voting Rights Act of 1965 since 1982, as
4 demonstrated in the counties certified by the Attor-
5 ney General for Federal examiner and observer cov-
6 erage and the tens of thousands of Federal observers
7 that have been dispatched to observe elections in
8 covered jurisdictions.

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

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

24 (8) Present day discrimination experienced by
25 racial and language minority voters is contained in

1 evidence, including the objections interposed by the
2 Department of Justice in covered jurisdictions; the
3 section 2 litigation filed to prevent dilutive tech-
4 niques from adversely affecting minority voters; the
5 enforcement actions filed to protect language minori-
6 ties; and the tens of thousands of Federal observers
7 dispatched to monitor polls in jurisdictions covered
8 by the Voting Rights Act of 1965.

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

16 **SEC. 3. CHANGES RELATING TO USE OF EXAMINERS AND**
17 **OBSERVERS.**

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

21 “SEC. 8. (a) Whenever—

22 “(1) a court has authorized the appointment of
23 observers under section 3(a) for a political subdivi-
24 sion; or

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

6 “(A) the Attorney General has received
7 written meritorious complaints from residents,
8 elected officials, or civic participation organiza-
9 tions that efforts to deny or abridge the right
10 to vote under the color of law on account of
11 race or color, or in contravention of the guaran-
12 tees set forth in section 4(f)(2) are likely to
13 occur; or

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

1 the Director of the Office of Personnel Management
2 shall assign as many observers for such subdivision
3 as the Director may deem appropriate.

4 “(b) Except as provided in subsection (c), such ob-
5 servers shall be assigned, compensated, and separated
6 without regard to the provisions of any statute adminis-
7 tered by the Director of the Office of Personnel Manage-
8 ment, and their service under this Act shall not be consid-
9 ered employment for the purposes of any statute adminis-
10 tered by the Director of the Office of Personnel Manage-
11 ment, except the provisions of section 7324 of title 5,
12 United States Code, prohibiting partisan political activity.

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

18 “(d) Observers shall be authorized to—

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

23 “(2) enter and attend at any place for tab-
24 ulating the votes cast at any election held in such
25 subdivision for the purpose of observing whether

1 votes cast by persons entitled to vote are being prop-
2 erly tabulated.

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

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

9 “SEC. 13. (a) The assignment of observers shall ter-
10minate in any political subdivision of any State—

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

1 of the guarantees set forth in section 4(f)(2) in such
2 subdivision; and

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

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

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

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

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

19 (1) Section 3(a) of the Voting Rights Act of
20 1965 (42 U.S.C. 1973a(a)) is amended by striking
21 “examiners” each place it appears and inserting
22 “observers”.

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

1 (3) Section 12(b) of the Voting Rights Act of
 2 1965 (42 U.S.C. 1973j(b)) is amended by striking
 3 “an examiner has been appointed” and inserting “an
 4 observer has been assigned”.

5 (4) Section 12(e) of the Voting Rights Act of
 6 1965 (42 U.S.C. 1973j(e)) is amended—

7 (A) by striking “examiners” and inserting
 8 “observers”; and

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

11 (e) CONFORMING CHANGES RELATING TO SECTION
 12 REFERENCES.—

13 (1) Section 4(b) of the Voting Rights Act of
 14 1965 (42 U.S.C. 1973b(b)) is amended by striking
 15 “section 6” and inserting “section 8”.

16 (2) Subsections (a) and (c) of section 12 of the
 17 Voting Rights Act of 1965 (42 U.S.C. 1973j(a) and
 18 1973j(c)) are each amended by striking “7,”.

19 (3) Section 14(b) of the Voting Rights Act of
 20 1965 (42 U.S.C. 1973l(b)) is amended by striking
 21 “or a court of appeals in any proceeding under sec-
 22 tion 9”.

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

24 Paragraphs (7) and (8) of section 4(a) of the Voting
 25 Rights Act of 1965 (42 U.S.C. 1973b(a)) are each amend-

1 ed by striking “Voting Rights Act Amendments of 1982”
2 and inserting “Fannie Lou Hamer, Rosa Parks, and
3 Coretta Scott King Voting Rights Act Reauthorization
4 and Amendments Act of 2006”.

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

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

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

9 (2) by striking “does not have the purpose and
10 will not have the effect” and inserting “neither has
11 the purpose nor will have the effect”; and

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

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

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

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

4 **SEC. 6. EXPERT FEES AND OTHER REASONABLE COSTS OF**
5 **LITIGATION.**

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

10 **SEC. 7. EXTENSION OF BILINGUAL ELECTION REQUIRE-**
11 **MENTS.**

12 Section 203(b)(1) of the Voting Rights Act of 1965
13 (42 U.S.C. 1973aa-1a(b)(1)) is amended by striking
14 “2007” and inserting “2032”.

15 **SEC. 8. USE OF AMERICAN COMMUNITY SURVEY CENSUS**
16 **DATA.**

17 Section 203(b)(2)(A) of the Voting Rights Act of
18 1965 (42 U.S.C. 1973aa-1a(b)(2)(A)) is amended by
19 striking “census data” and inserting “the 2010 American
20 Community Survey census data and subsequent American
21 Community Survey data in 5-year increments, or com-
22 parable census data”.

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