

117TH CONGRESS
1ST SESSION

H. R. 775

To amend the Help America Vote Act of 2002 to require States to promote access to voter registration and voting for individuals with disabilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2021

Ms. SCANLON introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the Help America Vote Act of 2002 to require States to promote access to voter registration and voting for individuals with disabilities, and for other purposes.

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 “Disability Voting
5 Rights Act”.

1 **SEC. 2. REQUIREMENTS FOR STATES TO PROMOTE ACCESS**
2 **TO VOTER REGISTRATION AND VOTING FOR**
3 **INDIVIDUALS WITH DISABILITIES.**

4 (a) REQUIREMENTS.—Subtitle A of title III of the
5 Help America Vote Act of 2002 (52 U.S.C. 21081 et seq.)
6 is amended—

7 (1) by redesignating sections 304 and 305 as
8 sections 305 and 306, respectively; and

9 (2) by inserting after section 303 the following
10 new section:

11 **“SEC. 304. ACCESS TO VOTER REGISTRATION AND VOTING**
12 **FOR INDIVIDUALS WITH DISABILITIES.**

13 “(a) TREATMENT OF APPLICATIONS AND BAL-
14 LOTS.—Each State shall—

15 “(1) permit individuals with disabilities to use
16 absentee registration procedures and to vote by ab-
17 sentee ballot in elections for Federal office;

18 “(2) accept and process, with respect to any
19 election for Federal office, any otherwise valid voter
20 registration application and absentee ballot applica-
21 tion from an individual with a disability if the appli-
22 cation is received by the appropriate State election
23 official within the deadline for the election which is
24 applicable under Federal law;

1 “(3) in addition to any other method of reg-
2 istering to vote or applying for an absentee ballot in
3 the State, establish procedures—

4 “(A) for individuals with disabilities to re-
5 quest by mail and electronically voter registra-
6 tion applications and absentee ballot applica-
7 tions with respect to elections for Federal office
8 in accordance with subsection (c);

9 “(B) for States to send by mail and elec-
10 tronically (in accordance with the preferred
11 method of transmission designated by the indi-
12 vidual under subparagraph (C)) voter registra-
13 tion applications and absentee ballot applica-
14 tions requested under subparagraph (A) in ac-
15 cordance with subsection (c)); and

16 “(C) by which such an individual can des-
17 ignate whether the individual prefers that such
18 voter registration application or absentee ballot
19 application be transmitted by mail or electroni-
20 cally;

21 “(4) in addition to any other method of trans-
22 mitting blank absentee ballots in the State, establish
23 procedures for transmitting by mail and electroni-
24 cally blank absentee ballots to individuals with dis-

1 abilities with respect to elections for Federal office
2 in accordance with subsection (d);

3 “(5) transmit a validly requested absentee bal-
4 lot to an individual with a disability—

5 “(A) except as provided in subsection (e),
6 in the case in which the request is received at
7 least 45 days before an election for Federal of-
8 fice, not later than 45 days before the election;
9 and

10 “(B) in the case in which the request is re-
11 ceived less than 45 days before an election for
12 Federal office—

13 “(i) in accordance with State law; and

14 “(ii) if practicable and as determined
15 appropriate by the State, in a manner that
16 expedites the transmission of such absen-
17 tee ballot; and

18 “(6) if the State declares or otherwise holds a
19 runoff election for Federal office, establish a written
20 plan that provides absentee ballots are made avail-
21 able to individuals with disabilities in a manner that
22 gives them sufficient time to vote in the runoff elec-
23 tion.

24 “(b) DESIGNATION OF SINGLE STATE OFFICE TO
25 PROVIDE INFORMATION ON REGISTRATION AND ABSEN-

1 THE BALLOT PROCEDURES FOR ALL DISABLED VOTERS
2 IN STATE.—Each State shall designate a single office
3 which shall be responsible for providing information re-
4 garding voter registration procedures and absentee ballot
5 procedures to be used by individuals with disabilities with
6 respect to elections for Federal office to all individuals
7 with disabilities who wish to register to vote or vote in
8 any jurisdiction in the State.

9 “(c) DESIGNATION OF MEANS OF ELECTRONIC COM-
10 MUNICATION FOR INDIVIDUALS WITH DISABILITIES TO
11 REQUEST AND FOR STATES TO SEND VOTER REGISTRA-
12 TION APPLICATIONS AND ABSENTEE BALLOT APPLICA-
13 TIONS, AND FOR OTHER PURPOSES RELATED TO VOTING
14 INFORMATION.—

15 “(1) IN GENERAL.—Each State shall, in addi-
16 tion to the designation of a single State office under
17 subsection (b), designate not less than 1 means of
18 electronic communication—

19 “(A) for use by individuals with disabilities
20 who wish to register to vote or vote in any ju-
21 risdiction in the State to request voter registra-
22 tion applications and absentee ballot applica-
23 tions under subsection (a)(3);

1 “(B) for use by States to send voter reg-
2 istration applications and absentee ballot appli-
3 cations requested under such subsection; and

4 “(C) for the purpose of providing related
5 voting, balloting, and election information to in-
6 dividuals with disabilities.

7 “(2) CLARIFICATION REGARDING PROVISION OF
8 MULTIPLE MEANS OF ELECTRONIC COMMUNICA-
9 TION.—A State may, in addition to the means of
10 electronic communication so designated, provide
11 multiple means of electronic communication to indi-
12 viduals with disabilities, including a means of elec-
13 tronic communication for the appropriate jurisdic-
14 tion of the State.

15 “(3) INCLUSION OF DESIGNATED MEANS OF
16 ELECTRONIC COMMUNICATION WITH INFORMA-
17 TIONAL AND INSTRUCTIONAL MATERIALS THAT AC-
18 COMPANY BALLOTING MATERIALS.—Each State shall
19 include a means of electronic communication so des-
20 ignated with all informational and instructional ma-
21 terials that accompany balloting materials sent by
22 the State to individuals with disabilities.

23 “(4) TRANSMISSION IF NO PREFERENCE INDI-
24 CATED.—In the case where an individual with a dis-
25 ability does not designate a preference under sub-

1 section (a)(3)(C), the State shall transmit the voter
2 registration application or absentee ballot application
3 by any delivery method allowable in accordance with
4 applicable State law, or if there is no applicable
5 State law, by mail.

6 “(d) TRANSMISSION OF BLANK ABSENTEE BALLOTS
7 BY MAIL AND ELECTRONICALLY.—

8 “(1) IN GENERAL.—Each State shall establish
9 procedures—

10 “(A) to securely transmit blank absentee
11 ballots by mail and electronically (in accordance
12 with the preferred method of transmission des-
13 ignated by the individual with a disability under
14 subparagraph (B)) to individuals with disabili-
15 ties for an election for Federal office; and

16 “(B) by which the individual with a dis-
17 ability can designate whether the individual pre-
18 fers that such blank absentee ballot be trans-
19 mitted by mail or electronically.

20 “(2) TRANSMISSION IF NO PREFERENCE INDI-
21 CATED.—In the case where an individual with a dis-
22 ability does not designate a preference under para-
23 graph (1)(B), the State shall transmit the ballot by
24 any delivery method allowable in accordance with ap-

1 applicable State law, or if there is no applicable State
2 law, by mail.

3 “(3) APPLICATION OF METHODS TO TRACK DE-
4 LIVERY TO AND RETURN OF BALLOT BY INDIVIDUAL
5 REQUESTING BALLOT.—Under the procedures estab-
6 lished under paragraph (1), the State shall apply
7 such methods as the State considers appropriate,
8 such as assigning a unique identifier to the ballot,
9 to ensure that if an individual with a disability re-
10 quests the State to transmit a blank absentee ballot
11 to the individual in accordance with this subsection,
12 the voted absentee ballot which is returned by the
13 individual is the same blank absentee ballot which
14 the State transmitted to the individual.

15 “(e) HARDSHIP EXEMPTION.—

16 “(1) IN GENERAL.—If the chief State election
17 official determines that the State is unable to meet
18 the requirement under subsection (a)(5)(A) with re-
19 spect to an election for Federal office due to an
20 undue hardship described in paragraph (2)(B), the
21 chief State election official shall request that the At-
22 torney General grant a waiver to the State of the
23 application of such subsection. Such request shall in-
24 clude—

1 “(A) a recognition that the purpose of
2 such subsection is to provide individuals with
3 disabilities enough time to vote in an election
4 for Federal office;

5 “(B) an explanation of the hardship that
6 indicates why the State is unable to transmit
7 such individuals an absentee ballot in accord-
8 ance with such subsection;

9 “(C) the number of days prior to the elec-
10 tion for Federal office that the State requires
11 absentee ballots be transmitted to such individ-
12 uals; and

13 “(D) a comprehensive plan to ensure that
14 such individuals are able to receive absentee
15 ballots which they have requested and submit
16 marked absentee ballots to the appropriate
17 State election official in time to have that ballot
18 counted in the election for Federal office, which
19 includes—

20 “(i) the steps the State will undertake
21 to ensure that such individuals have time
22 to receive, mark, and submit their ballots
23 in time to have those ballots counted in the
24 election;

1 “(ii) why the plan provides such indi-
2 viduals sufficient time to vote as a sub-
3 stitute for the requirements under such
4 subsection; and

5 “(iii) the underlying factual informa-
6 tion which explains how the plan provides
7 such sufficient time to vote as a substitute
8 for such requirements.

9 “(2) APPROVAL OF WAIVER REQUEST.—The
10 Attorney General shall approve a waiver request
11 under paragraph (1) if the Attorney General deter-
12 mines each of the following requirements are met:

13 “(A) The comprehensive plan under sub-
14 paragraph (D) of such paragraph provides indi-
15 viduals with disabilities sufficient time to re-
16 ceive absentee ballots they have requested and
17 submit marked absentee ballots to the appro-
18 priate State election official in time to have that
19 ballot counted in the election for Federal office.

20 “(B) One or more of the following issues
21 creates an undue hardship for the State:

22 “(i) The State’s primary election date
23 prohibits the State from complying with
24 subsection (a)(5)(A).

1 “(ii) The State has suffered a delay in
2 generating ballots due to a legal contest.

3 “(iii) The State Constitution prohibits
4 the State from complying with such sub-
5 section.

6 “(3) TIMING OF WAIVER.—

7 “(A) IN GENERAL.—Except as provided
8 under subparagraph (B), a State that requests
9 a waiver under paragraph (1) shall submit to
10 the Attorney General the written waiver request
11 not later than 90 days before the date of the
12 election for Federal office with respect to which
13 the request is submitted. The Attorney General
14 shall approve or deny the waiver request not
15 later than 65 days before the date of such elec-
16 tion.

17 “(B) EXCEPTION.—If a State requests a
18 waiver under paragraph (1) as the result of an
19 undue hardship described in paragraph
20 (2)(B)(ii), the State shall submit to the Attor-
21 ney General the written waiver request as soon
22 as practicable. The Attorney General shall ap-
23 prove or deny the waiver request not later than
24 5 business days after the date on which the re-
25 quest is received.

1 “(4) APPLICATION OF WAIVER.—A waiver ap-
2 proved under paragraph (2) shall only apply with re-
3 spect to the election for Federal office for which the
4 request was submitted. For each subsequent election
5 for Federal office, the Attorney General shall only
6 approve a waiver if the State has submitted a re-
7 quest under paragraph (1) with respect to such elec-
8 tion.

9 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
10 tion may be construed to allow the marking or casting of
11 ballots over the internet.

12 “(g) INDIVIDUAL WITH A DISABILITY DEFINED.—
13 In this section, an ‘individual with a disability’ means an
14 individual with an impairment that substantially limits
15 any major life activities and who is otherwise qualified to
16 vote in elections for Federal office.

17 “(h) EFFECTIVE DATE.—This section shall apply
18 with respect to elections for Federal office held on or after
19 January 1, 2022.”.

20 (b) CONFORMING AMENDMENT RELATING TO
21 ISSUANCE OF VOLUNTARY GUIDANCE BY ELECTION AS-
22 SISTANCE COMMISSION.—Section 311(b) of such Act (52
23 U.S.C. 21101(b)) is amended—

24 (1) by striking “and” at the end of paragraph
25 (2);

“(4) in the case of the recommendations with
respect to section 304, January 1, 2022.”.

11 (d) CLERICAL AMENDMENTS.—The table of contents
12 of such Act is amended—

(2) by inserting after the item relating to section 303 the following new item:

18 SEC. 3. EXPANSION AND REAUTHORIZATION OF GRANT
19 PROGRAM TO ASSURE VOTING ACCESS FOR
20 INDIVIDUALS WITH DISABILITIES.

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1 “(1) making absentee voting and voting at
2 home accessible to individuals with the full range of
3 disabilities (including impairments involving vision,
4 hearing, mobility, or dexterity) through the imple-
5 mentation of accessible absentee voting systems that
6 work in conjunction with assistive technologies for
7 which individuals have access at their homes, inde-
8 pendent living centers, or other facilities;

9 “(2) making polling places, including the path
10 of travel, entrances, exits, and voting areas of each
11 polling facility, accessible to individuals with disabil-
12 ities, including the blind and visually impaired, in a
13 manner that provides the same opportunity for ac-
14 cess and participation (including privacy and inde-
15 pendence) as for other voters; and

16 “(3) providing solutions to problems of access
17 to voting and elections for individuals with disabil-
18 ities that are universally designed and provide the
19 same opportunities for individuals with and without
20 disabilities.”.

21 (b) REAUTHORIZATION.—Section 264(a) of such Act
22 (52 U.S.C. 21024(a)) is amended by adding at the end
23 the following new paragraph:

1 “(4) For fiscal year 2022 and each succeeding
2 fiscal year, such sums as may be necessary to carry
3 out this part.”.

4 (c) PERIOD OF AVAILABILITY OF FUNDS.—Section
5 264 of such Act (52 U.S.C. 21024) is amended—

6 (1) in subsection (b), by striking “Any
7 amounts” and inserting “Except as provided in sub-
8 section (c), any amounts”; and

9 (2) by adding at the end the following new sub-
10 section:

11 “(c) RETURN AND TRANSFER OF CERTAIN FUNDS.—

12 “(1) DEADLINE FOR OBLIGATION AND EXPEND-
13 ITURE.—In the case of any amounts appropriated
14 pursuant to the authority of subsection (a) for a
15 payment to a State or unit of local government for
16 fiscal year 2022 or any succeeding fiscal year, any
17 portion of such amounts which have not been obli-
18 gated or expended by the State or unit of local gov-
19 ernment prior to the expiration of the 4-year period
20 which begins on the date the State or unit of local
21 government first received the amounts shall be
22 transferred to the Commission.

23 “(2) REALLOCATION OF TRANSFERRED
24 AMOUNTS.—

1 “(A) IN GENERAL.—The Commission shall
2 use the amounts transferred under paragraph
3 (1) to make payments on a pro rata basis to
4 each covered payment recipient described in
5 subparagraph (B), which may obligate and ex-
6 pend such payment for the purposes described
7 in section 261(b) during the 1-year period
8 which begins on the date of receipt.

9 “(B) COVERED PAYMENT RECIPIENTS DE-
10 SCRIBED.—In subparagraph (A), a ‘covered
11 payment recipient’ is a State or unit of local
12 government with respect to which—

13 “(i) amounts were appropriated pur-
14 suant to the authority of subsection (a);
15 and

16 “(ii) no amounts were transferred to
17 the Commission under paragraph (1).”.

○