

116TH CONGRESS
1ST SESSION

S. 955

To amend the Help America Vote Act of 2002 to reduce waiting times
for voters in Federal elections.

IN THE SENATE OF THE UNITED STATES

MARCH 28, 2019

Mr. MERKLEY introduced the following bill; which was read twice and referred
to the Committee on Rules and Administration

A BILL

To amend the Help America Vote Act of 2002 to reduce
waiting times for voters in Federal elections.

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 “Polling Place Protec-
5 tion Act of 2019”.

6 **SEC. 2. REDUCING WAITING TIMES FOR VOTERS IN FED-**
7 **ERAL ELECTIONS.**

8 (a) REQUIREMENTS FOR STATES.—

1 (1) IN GENERAL.—Subtitle A of title III of the
 2 Help America Vote Act of 2002 (52 U.S.C. 21081
 3 et seq.) is amended—

4 (A) by redesignating sections 304 as sec-
 5 tion 307; and

6 (B) by inserting after section 303 the fol-
 7 lowing new section:

8 **“SEC. 304. PREVENTING UNREASONABLE WAITING TIMES**
 9 **FOR VOTERS.**

10 “(a) PREVENTING UNREASONABLE WAITING
 11 TIMES.—

12 “(1) IN GENERAL.—Each State and jurisdiction
 13 which is responsible for administering elections for
 14 Federal office shall provide a sufficient number of
 15 voting systems, poll workers, and other election re-
 16 sources, including physical resources, at a polling
 17 place used in any election for Federal office, includ-
 18 ing a polling place at which individuals may cast bal-
 19 lots prior to the date of the election, to ensure—

20 “(A) a reasonably uniform ratio of election
 21 staff and voting systems to registered voters in
 22 the jurisdiction;

23 “(B) a reasonably uniform and geographic
 24 distribution of polling places to ensure that all

1 voters in a jurisdiction have equal access to
2 polling places;

3 “(C) a fair and equitable waiting time for
4 all voters in the State; and

5 “(D) that no individual will be required to
6 wait longer than 30 minutes to cast a ballot at
7 the polling place.

8 “(2) CRITERIA.—In determining the number of
9 voting systems, poll workers, and other election re-
10 sources provided at a polling place for purposes of
11 paragraph (1), the jurisdiction shall take into ac-
12 count the following factors:

13 “(A) The voting age population.

14 “(B) Voter turnout in past and similar
15 elections.

16 “(C) The number of voters registered.

17 “(D) The number of voters who have reg-
18 istered since the most recent Federal election.

19 “(E) Census data for the population served
20 by the polling place, such as the proportion of
21 the voting age population who are under 25
22 years of age or who are naturalized citizens.

23 “(F) The needs and numbers of voters
24 with disabilities and voters with limited English
25 proficiency.

1 “(G) The type of voting systems used.

2 “(H) The length and complexity of initia-
3 tives, referenda, and other questions on the bal-
4 lot.

5 “(I) Complaints received during and fol-
6 lowing prior elections about long wait times or
7 other problems voters experienced at polling
8 places in the jurisdiction, including whether and
9 in which ways polling places worked to remedy
10 such complaints.

11 “(J) Such other factors, if available, in-
12 cluding relevant demographic factors relating to
13 the population served by the polling place deter-
14 mined by the State or jurisdiction.

15 “(3) GUIDELINES.—Not later than 180 days
16 after the date of the enactment of this section, the
17 Commission shall establish and publish guidelines to
18 assist States and jurisdictions in meeting the re-
19 quirements of this subsection.

20 “(4) RULE OF CONSTRUCTION.—Nothing in
21 this subsection may be construed to authorize a
22 State or jurisdiction to meet the requirements of this
23 subsection by closing any polling place, prohibiting
24 an individual from entering a line at a polling place,
25 or refusing to permit an individual who has arrived

1 at a polling place prior to closing time from voting
2 at the polling place.

3 “(b) DEVELOPMENT AND IMPLEMENTATION OF
4 ELECTION ADMINISTRATION PLANS, INCLUDING CONTIN-
5 GENCY PLANS.—

6 “(1) IN GENERAL.—Each jurisdiction which ad-
7 ministers elections for Federal office shall develop,
8 and implement to the greatest extent practicable, an
9 election administration plan for each election for
10 Federal office, in accordance with applicable Federal
11 and State law. Such election administration plan
12 shall include a contingency plan under which the ju-
13 risdiction shall provide additional poll workers, ma-
14 chines, ballots, and other equipment and supplies (as
15 the case may be) on the date of the election to any
16 polling place used in an election for Federal office,
17 including a polling place at which individuals may
18 cast ballots prior to the date of the election, at
19 which waiting times exceed 30 minutes. Each such
20 contingency plan shall also include a provision by
21 which the jurisdiction shall extend the closing time
22 for the polling place in the case where there is a
23 delay in the timely opening or operation of a polling
24 place or when voters have waited more than 30 min-
25 utes to cast a ballot. Such extended poll hours shall

1 be commensurate with the total time of the delayed
 2 opening or operation of the polling place and for the
 3 total period of time exceeding 30 minutes that voters
 4 had to wait in order to cast a ballot at the polling
 5 place from the time of arrival.

6 “(2) APPROVAL OF PLAN BY COMMISSION.—
 7 Notwithstanding section 209, the State shall ensure
 8 that the contingency plan developed under para-
 9 graph (1) is approved by the Commission prior to
 10 the date of the election involved, in accordance with
 11 such procedures as the Commission may establish.

12 “(c) EFFECTIVE DATE.—This section shall apply
 13 with respect to elections held on or after the date that
 14 is 180 days after the date of enactment of this section.”.

15 (2) ENFORCEMENT; PRIVATE RIGHT OF ACTION
 16 FOR UNREASONABLE WAITING TIMES FOR VOT-
 17 ERS.—

18 (A) IN GENERAL.—Section 401 of the
 19 Help America Vote Act of 2002 (52 U.S.C.
 20 21111) is amended—

21 (i) by striking the section heading and
 22 inserting the following: “**ENFORCE-**
 23 **MENT**”;

1 (ii) by striking “The Attorney Gen-
 2 eral” and inserting “(a) IN GENERAL.—
 3 The Attorney General”;

4 (iii) in subsection (a), as added by
 5 subparagraph (B), by striking “and 303”
 6 and inserting “303, and 304”; and

7 (iv) by adding at the end the following
 8 new subsection:

9 “(b) PRIVATE RIGHT OF ACTION.—

10 “(1) AVAILABILITY.—A person who is aggrieved
 11 by a State’s or jurisdiction’s violation of section 304,
 12 relating to preventing unreasonable waiting times for
 13 voter, may bring a civil action in an appropriate
 14 United States District Court for such declaratory or
 15 injunctive relief as may be necessary to carry out the
 16 requirements of such section.

17 “(2) COSTS AND ATTORNEY FEES.—The court
 18 may award to a person aggrieved by a violation of
 19 section 304 who prevails in an action brought under
 20 paragraph (1) the costs of the action, including a
 21 reasonable attorney fee.

22 “(c) EXTENSION OF POLLING HOURS.—A United
 23 States District Court may extend the hours for a polling
 24 location in any action brought under subsection (a) or (b)
 25 to enforce the provisions of such section 304.”.

1 (B) CLERICAL AMENDMENT.—The table of
 2 contents of such Act is amended by amending
 3 the item relating to section 401 to read as fol-
 4 lows:

“Sec. 401. Enforcement.”.

5 (3) CONFORMING AMENDMENT RELATING TO
 6 RULEMAKING AUTHORITY.—Section 209 of such Act
 7 (52 U.S.C. 20929) is amended by striking “The
 8 Commission” and inserting “Except as provided in
 9 section 304(b)(2), the Commission”.

10 (4) CLERICAL AMENDMENTS.—The table of
 11 contents of such Act is amended—

12 (A) by redesignating the item relating to
 13 section 304 as relating to section 307; and

14 (B) by inserting after the item relating to
 15 section 303 the following new item:

“Sec. 304. Preventing unreasonable waiting times for voters.”.

16 (b) REPORT BY ELECTION ASSISTANCE COMMIS-
 17 SION.—Not later than June 30 of each odd-numbered
 18 year, the Election Assistance Commission shall submit to
 19 Congress a report assessing the impact of section 304 of
 20 the Help America Vote Act of 2002 (as added by sub-
 21 section (a)) on the administration of elections for Federal
 22 office during the preceding 2-year period, and shall include
 23 in the report such recommendations as the Commission
 24 considers appropriate.

1 (c) NO EFFECT ON AUTHORITY OF STATE TO PRO-
2 VIDE FOR LONGER PERIODS OF EARLY VOTING OR
3 GREATER AMOUNT OF RESOURCES AT POLLING
4 PLACES.—Nothing in this section or in any amendment
5 made by this section may be construed to prohibit a State,
6 with respect to any election for Federal office from pro-
7 viding (in an equitable and nondiscriminatory manner) a
8 greater number of systems, poll workers, and other elec-
9 tion resources at any polling place than the minimum
10 number required under section 304 of such Act (as added
11 by subsection (a)).

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