

Public Law 109–246
109th Congress

An Act

To amend the Voting Rights Act of 1965.

July 27, 2006

[H.R. 9]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. CONGRESSIONAL PURPOSE AND FINDINGS.

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

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

(1) Significant progress has been made in eliminating first generation barriers experienced by minority voters, including increased numbers of registered minority voters, minority voter turnout, and minority representation in Congress, State legislatures, and local elected offices. This progress is the direct result of the Voting Rights Act of 1965.

(2) However, vestiges of discrimination in voting continue to exist as demonstrated by second generation barriers constructed to prevent minority voters from fully participating in the electoral process.

(3) The continued evidence of racially polarized voting in each of the jurisdictions covered by the expiring provisions of the Voting Rights Act of 1965 demonstrates that racial and language minorities remain politically vulnerable, warranting the continued protection of the Voting Rights Act of 1965.

(4) Evidence of continued discrimination includes—

(A) the hundreds of objections interposed, requests for more information submitted followed by voting changes withdrawn from consideration by jurisdictions covered by the Voting Rights Act of 1965, and section 5 enforcement actions undertaken by the Department of Justice in covered jurisdictions since 1982 that prevented election practices, such as annexation, at-large voting, and the use of multi-member districts, from being enacted to dilute minority voting strength;

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

Fannie Lou
Hamer, Rosa
Parks, and
Coretta Scott
King Voting
Rights Act
Reauthorization
and Amendments
Act of 2006.
42 USC 1971
note.
42 USC 1973
note.

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

(D) the litigation pursued by the Department of Justice since 1982 to enforce sections 4(e), 4(f)(4), and 203 of such Act to ensure that all language minority citizens have full access to the political process.

(5) The evidence clearly shows the continued need for Federal oversight in jurisdictions covered by the Voting Rights Act of 1965 since 1982, as demonstrated in the counties certified by the Attorney General for Federal examiner and observer coverage and the tens of thousands of Federal observers that have been dispatched to observe elections in covered jurisdictions.

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

(7) Despite the progress made by minorities under the Voting Rights Act of 1965, the evidence before Congress reveals that 40 years has not been a sufficient amount of time to eliminate the vestiges of discrimination following nearly 100 years of disregard for the dictates of the 15th amendment and to ensure that the right of all citizens to vote is protected as guaranteed by the Constitution.

(8) Present day discrimination experienced by racial and language minority voters is contained in evidence, including the objections interposed by the Department of Justice in covered jurisdictions; the section 2 litigation filed to prevent dilutive techniques from adversely affecting minority voters; the enforcement actions filed to protect language minorities; and the tens of thousands of Federal observers dispatched to monitor polls in jurisdictions covered by the Voting Rights Act of 1965.

(9) The record compiled by Congress demonstrates that, without the continuation of the Voting Rights Act of 1965 protections, racial and language minority citizens will be deprived of the opportunity to exercise their right to vote, or will have their votes diluted, undermining the significant gains made by minorities in the last 40 years.

SEC. 3. CHANGES RELATING TO USE OF EXAMINERS AND OBSERVERS.

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

“SEC. 8. (a) Whenever—

“(1) a court has authorized the appointment of observers under section 3(a) for a political subdivision; or

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

“(A) the Attorney General has received written meritorious complaints from residents, elected officials, or civic participation organizations that efforts to deny or abridge the right to vote under the color of law on account of

race or color, or in contravention of the guarantees set forth in section 4(f)(2) are likely to occur; or

“(B) in the Attorney General’s judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to the Attorney General to be reasonably attributable to violations of the 14th or 15th amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the 14th or 15th amendment), the assignment of observers is otherwise necessary to enforce the guarantees of the 14th or 15th amendment;

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

“(b) Except as provided in subsection (c), such observers shall be assigned, compensated, and separated without regard to the provisions of any statute administered by the Director of the Office of Personnel Management, and their service under this Act shall not be considered employment for the purposes of any statute administered by the Director of the Office of Personnel Management, except the provisions of section 7324 of title 5, United States Code, prohibiting partisan political activity.

“(c) The Director of the Office of Personnel Management is authorized to, after consulting the head of the appropriate department or agency, designate suitable persons in the official service of the United States, with their consent, to serve in these positions.

“(d) Observers shall be authorized to—

“(1) enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote; and

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

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

Investigation.
Reports.

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

“SEC. 13. (a) The assignment of observers shall terminate in any political subdivision of any State—

“(1) with respect to observers appointed pursuant to section 8 or with respect to examiners certified under this Act before the date of the enactment of the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, whenever the Attorney General notifies the Director of the Office of Personnel Management, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision described in subsection (b), that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) in such subdivision; and

“(2) with respect to observers appointed pursuant to section 3(a), upon order of the authorizing court.

“(b) A political subdivision referred to in subsection (a)(1) is one with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote.

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

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

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

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

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

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

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

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

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

(e) CONFORMING CHANGES RELATING TO SECTION REFERENCES.—

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

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

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

SEC. 4. RECONSIDERATION OF SECTION 4 BY CONGRESS.

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

SEC. 5. CRITERIA FOR DECLARATORY JUDGMENT.

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

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

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

(3) by adding at the end the following:

“(b) Any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting that has the purpose of or will have the effect of diminishing the ability

of any citizens of the United States on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), to elect their preferred candidates of choice denies or abridges the right to vote within the meaning of subsection (a) of this section.

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

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

SEC. 6. EXPERT FEES AND OTHER REASONABLE COSTS OF LITIGATION.

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

SEC. 7. EXTENSION OF BILINGUAL ELECTION REQUIREMENTS.

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

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

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

SEC. 9. STUDY AND REPORT.

The Comptroller General shall study the implementation, effectiveness, and efficiency of the current section 203 of the Voting Rights Act of 1965 and alternatives to the current implementation consistent with that section. The Comptroller General shall report the results of that study to Congress not later than 1 year after the date of the enactment of this Act.

Approved July 27, 2006.

LEGISLATIVE HISTORY—H.R. 9 (S. 2703):

HOUSE REPORTS: No. 109-478 (Comm. on the Judiciary).

SENATE REPORTS: No. 109-295 accompanying S. 2703 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 152 (2006):

July 13, considered and passed House.

July 20, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):

July 27, Presidential remarks.