

117TH CONGRESS
1ST SESSION

S. 2615

Protecting the right to vote in elections for Federal office, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 4, 2021

Mr. OSSOFF (for himself, Mr. KING, Mr. PADILLA, Ms. KLOBUCHAR, and Mr. WARNOCK) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

Protecting the right to vote in elections for Federal office,
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 “Right to Vote Act”.

5 **SEC. 2. UNDUE BURDENS ON THE ABILITY TO VOTE IN**
6 **ELECTIONS FOR FEDERAL OFFICE PROHIB-**
7 **ITED.**

8 (a) IN GENERAL.—Every citizen of legal voting age
9 shall have the fundamental right to vote in elections for
10 Federal office.

1 (b) RETROGRESSION.—A government may not dimin-
2 ish the ability to vote in an election for Federal office un-
3 less the law, rule, standard, practice, procedure, or other
4 governmental action causing the diminishment is the least
5 restrictive means of significantly furthering an important,
6 particularized government interest.

7 (c) SUBSTANTIAL IMPAIRMENT.—A government may
8 not substantially impair the ability to vote in an election
9 for Federal office unless the law, rule, standard, practice,
10 procedure, or other governmental action causing the im-
11 pairment significantly furthers an important, particular-
12 ized governmental interest. A substantial impairment is a
13 non-trivial impairment that makes it more difficult to vote
14 than if the law, rule, standard, practice, procedure, or
15 other governmental action had not been adopted or imple-
16 mented. An impairment may be substantial even if the
17 voter or other similarly situated voters are able to vote
18 notwithstanding the impairment.

19 **SEC. 3. JUDICIAL REVIEW.**

20 (a) CIVIL ACTION.—An action challenging a violation
21 of the rights created by this Act may be brought in the
22 district court for the District of Columbia, or the district
23 court for the district in which the violation took place or
24 where any defendant resides or does business, at the selec-
25 tion of the plaintiff, to obtain all appropriate relief, wheth-

1 er declaratory or injunctive, or facial or as-applied. Proc-
2 ess may be served in any district where a defendant re-
3 sides, does business, or may be found.

4 (b) STANDARDS TO BE APPLIED.—Courts adjudi-
5 cating actions brought to enforce the rights created by this
6 Act shall apply the following standards:

7 (1) RETROGRESSION.—

8 (A) A plaintiff establishes a prima facie
9 case of retrogression by demonstrating by a
10 preponderance of the evidence that a rule,
11 standard, practice, procedure, or other govern-
12 mental action diminishes the ability, or other-
13 wise makes it more difficult, to vote.

14 (B) Once a plaintiff establishes a prima
15 facie case as described in subparagraph (A), the
16 government shall be provided an opportunity to
17 demonstrate by clear and convincing evidence
18 that the diminishment is necessary to signifi-
19 cantly further an important, particularized gov-
20 ernmental interest.

21 (C) If the government meets its burden
22 under subparagraph (B), the challenged rule,
23 standard, practice, procedure, or other govern-
24 mental action shall nonetheless be deemed in-
25 valid if the plaintiff demonstrates by a prepon-

1 derance of the evidence that the government
2 could adopt or implement a less-restrictive
3 means of furthering the particular important
4 governmental interest.

5 (2) SUBSTANTIAL IMPAIRMENT.—

6 (A) A plaintiff establishes a prima facie
7 case of substantial impairment by dem-
8 onstrating by a preponderance of the evidence
9 that a rule, standard, practice, procedure, or
10 other governmental action substantially impairs
11 the ability, or makes it substantially difficult, to
12 vote.

13 (B) Once a plaintiff establishes a prima
14 facie case as described in subparagraph (A), the
15 government shall be provided an opportunity to
16 demonstrate by clear and convincing evidence
17 that the impairment significantly furthers an
18 important, particularized governmental interest.

19 (c) DUTY TO EXPEDITE.—It shall be the duty of the
20 court to advance on the docket and to expedite to the
21 greatest reasonable extent the disposition of the action
22 and appeal under this section.

23 (d) ATTORNEY'S FEES.—Section 722(b) of the Re-
24 vised Statutes (42 U.S.C. 1988(b)) is amended—

1 (1) by striking “or section 40302” and insert-
2 ing “section 40302”; and

3 (2) by striking “, the court” and inserting “, or
4 the Right to Vote Act, the court”.

5 **SEC. 4. DEFINITIONS.**

6 In this Act—

7 (1) the term “covered entity” means the Dis-
8 trict of Columbia, the Commonwealth of Puerto
9 Rico, and each territory and possession of the
10 United States;

11 (2) the terms “election” and “Federal office”
12 have the meanings given such terms in section 301
13 of the Federal Election Campaign Act of 1971 (52
14 U.S.C. 30101);

15 (3) the term “government” includes a branch,
16 department, agency, instrumentality, and official (or
17 other person acting under color of law) of the
18 United States, of any State, of any covered entity,
19 or of any political subdivision of any state or covered
20 entity; and

21 (4) the term “vote” means all actions necessary
22 to make a vote effective, including registration or
23 other action required by law as a prerequisite to vot-
24 ing, casting a ballot, and having such ballot counted
25 and included in the appropriate totals of votes cast

1 with respect to candidates for public office for which
2 votes are received in an election.

3 **SEC. 5. RULES OF CONSTRUCTION.**

4 (a) **BURDENS NOT AUTHORIZED.**—Nothing in this
5 Act may be construed to authorize a government to burden
6 the right to vote in elections for Federal office.

7 (b) **OTHER RIGHTS AND REMEDIES.**—Nothing in
8 this Act shall be construed as indicating an intent on the
9 part of Congress to alter any rights existing under a State
10 constitution or the Constitution of the United States, or
11 to limit any remedies for any other violations of Federal,
12 State, or local law.

13 (c) **OTHER PROVISION.**—Nothing in this Act shall be
14 construed as conflicting with section 1403 (“Rights of
15 Citizens”) of H.R. 1 of the 117th Congress as passed by
16 the House of Representatives on March 3, 2021.

17 **SEC. 6. SEVERABILITY.**

18 If any provision of this Act or the application of such
19 provision to any citizen or circumstance is held to be un-
20 constitutional, the remainder of this Act and the applica-
21 tion of the provisions of such to any citizen or cir-
22 cumstance shall not be affected thereby.

23 **SEC. 7. EFFECTIVE DATES.**

24 (a) **RETROGRESSION.**—Subsection (b) of section 2
25 shall apply to any law, rule, standard, practice, procedure,

1 or other governmental action that was not in effect during
2 the November 2020 Federal election but that will be in
3 effect with respect to elections for Federal office occurring
4 on or after January 1, 2022, even if such law, rule, stand-
5 ard, practice, procedure, or other governmental action is
6 already in effect at the time this Act is enacted.

7 (b) SUBSTANTIAL IMPAIRMENT.—Subsection (c) of
8 section 2 shall apply to any law, rule, standard, practice,
9 procedure, or other governmental action in effect with re-
10 spect to elections for Federal office occurring on or after
11 January 1, 2022.

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