

108TH CONGRESS
1ST SESSION

H. R. 1941

To enforce the guarantees of the first, fourteenth, and fifteenth amendments to the Constitution of the United States by prohibiting certain devices used to deny the right to participate in certain elections.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2003

Mr. PAUL introduced the following bill; which was referred to the Committee on House Administration

A BILL

To enforce the guarantees of the first, fourteenth, and fifteenth amendments to the Constitution of the United States by prohibiting certain devices used to deny the right to participate in certain 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 “Voter Freedom Act
5 of 2003”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress makes the following
8 findings:

1 (1) The rights of eligible citizens to seek elec-
2 tion to Congress, vote for candidates of their choice
3 and associate for the purpose of taking part in elec-
4 tions, including the right to create and develop new
5 political parties, are fundamental to a democracy.
6 The rights of citizens to participate in the election
7 process for members of Congress are set forth in ar-
8 ticle I. The United States Supreme Court has held
9 that the states are powerless to discriminate against
10 a class of candidates for Congress. *Cook v. Gralike*,
11 ____ US ____ (decision of February 28, 2001). The
12 United States Supreme Court has also held that all
13 voters must be treated equally. *Bush v. Gore*, ____
14 US ____ (decision of December 12, 2000).

15 (2) The voters of the various states sometimes
16 elect candidates to Congress who are neither nomi-
17 nees, nor members, of the two major political par-
18 ties. According to the Clerk of the U.S. House of
19 Representatives, voters have on at least 125 occa-
20 sions elected someone to the U.S. House of Rep-
21 resentatives who was neither a Republican nor a
22 Democrat. According to a recent compilation,
23 throughout the twentieth century, the percentage of
24 voters who have voted for minor party and inde-
25 pendent candidates for the U.S. House of Represent-

1 atives has averaged 3.7 percent. On November 7,
2 2000, it was 4.2 percent. Clearly, a substantial num-
3 ber of voters desire to vote for candidates for the
4 U.S. House of Representatives who are minor party
5 nominees and/or independent candidates. Such vot-
6 ers have existed in fairly substantial numbers in
7 every decade of the twentieth century, and may be
8 expected to exist in the twenty-first century.

9 (3) Some states have enacted election laws
10 which require minor party nominees, or independent
11 candidates, for the U.S. House of Representatives,
12 to submit petitions signed by more than 10,000 reg-
13 istered voters within a district. For example, Georgia
14 requires such candidates to not only pay a filing fee,
15 but to submit a petition signed by 5 percent of the
16 number of registered voters in the district. The sig-
17 natures must be notarized. By contrast, members of
18 political parties which have polled 20 percent for
19 President of the United States throughout the entire
20 nation, or which have polled 20 percent for Governor
21 of Georgia, need not submit any petition signatures.
22 No candidate for U.S. House of Representatives
23 from Georgia has managed to comply with the 5
24 percent petition requirement since 1964. North
25 Carolina requires an independent candidate for the

1 U.S. House of Representatives to submit a petition
2 signed by 4 percent of the number of registered vot-
3 ers in the district. By contrast, members of qualified
4 political parties need not submit any petitions in
5 North Carolina to run for Congress. No independent
6 candidate for the U.S. House of Representatives has
7 ever qualified for the North Carolina ballot. South
8 Carolina requires an independent candidate for the
9 U.S. House of Representatives to submit a petition
10 signed by 10,000 signatures. By contrast, members
11 of qualified political parties need not submit any pe-
12 tition signatures in order to run for Congress. No
13 independent candidate for the U.S. House of Rep-
14 resentatives has ever qualified for the South Caro-
15 lina ballot. California requires an independent can-
16 didate for the U.S. House of Representatives to sub-
17 mit a petition signed by 3 percent of the number of
18 registered voters in the district. By contrast, mem-
19 bers of qualified political parties only need to submit
20 40 signatures in order to run for U.S. House of
21 Representatives.

22 (4) Throughout all U.S. history, there are only
23 four individuals who have ever successfully overcome
24 a signature requirement greater than 10,000 signa-
25 tures in order to gain a place on a ballot for U.S.

1 House of Representatives. They are Frazier Reems,
2 an independent member of the U.S. House of Rep-
3 resentatives from Ohio who had to collect 12,920
4 valid signatures in the 9th district in 1954 in order
5 to run for re-election; Jack Gargan, the Reform
6 Party nominee for Florida's 5th district in 1998,
7 who had to collect 12,141 valid signatures; Steven
8 Wheeler, an independent candidate in California's
9 22nd district in 1996, who had to collect 10,191
10 valid signatures; and Steve Kelly, independent can-
11 didate for Montana's At-Large seat in 1994, who
12 had to collect 10,186 valid signatures.

13 (5) Other states do not require independent
14 candidates, or the candidates of unqualified parties,
15 to submit large numbers of signatures in order to
16 run for the U.S. House of Representatives, and yet
17 they do not suffer from a crowded ballot. Florida no
18 longer requires any signatures on a petition for any-
19 one to run for Congress, yet in 2000 there was no
20 U.S. House race in Florida with more than 4 can-
21 didates on the ballot. Florida requires a filing fee in-
22 stead of a petition for ballot access for everyone. Ha-
23 waii and Tennessee only require 25 signatures for
24 anyone to run for Congress. Washington does not re-
25 quire any signatures for members of qualified par-

1 ties to run for public office, and only requires 25
2 signatures from other individuals to run for the
3 United States House of Representatives. New Jersey
4 only requires 100 signatures for any individual to
5 run for United States House of Representatives as
6 an independent, or 200 signatures to run in a party
7 primary. It is clear from the experience of such
8 states that no state needs to require as many as
9 10,000 or 15,000 signatures for candidates to run
10 for the House in order to keep the ballot
11 uncluttered.

12 (6) Some states have enacted laws which re-
13 quire new political parties, or independent can-
14 didates, to file a substantial number of petitions as
15 much as ten months or more before a general elec-
16 tion. Illinois requires independent candidates for
17 Congress to file a petition in December of the year
18 before the general election. Such petitions must be
19 signed by 5 percent of the last vote cast for the seat
20 they are seeking. Although members of qualified
21 parties must also submit petitions by the same early
22 date, members of qualified parties only need one-
23 tenth as many signatures. For mid-term election
24 years, Ohio requires new political parties to submit
25 a petition equal to 1 percent of the last vote cast,

1 by January. In presidential election years, Ohio re-
2 quires such a petition by November of the year be-
3 fore the election. California requires a new political
4 party to have registered members equal to 1 percent
5 of the last vote cast by October of the year before
6 an election. Mississippi requires independent can-
7 didates for Congress to file a petition by January of
8 an election year.

9 (7) Some states print partisan ballot labels on
10 the general election ballot for some candidates for
11 Congress, yet refuse to print such labels for other
12 candidates for Congress. Virginia prints party labels
13 on the ballot if the candidate is the nominee of a
14 party which polled 10 percent of the statewide vote
15 at a previous election. Other candidates must be
16 labelled “independent”, whether they are the nomi-
17 nees of a minor or new party or whether they really
18 are independents. Louisiana prints party labels for
19 candidates who are members of a party that has reg-
20 istration membership of 5 percent, or which polled
21 5 percent for president at the last election. Other
22 candidates may not have any partisan label printed
23 on the ballot next to their names, not even the term
24 “independent”.

1 (8) The establishment of fair and uniform na-
2 tional standards for access to the ballot in elections
3 for the U.S. House of Representatives would remove
4 barriers to the participation of citizens in the elec-
5 toral process and thereby facilitate such participa-
6 tion and maximize the rights identified in this sub-
7 section.

8 (9) The Congress has authority, under the pro-
9 visions of the Constitution of the United States in
10 sections 4 and 8 of article I, to protect and promote
11 the exercise of the rights identified in this sub-
12 section.

13 (b) PURPOSES.—The purposes of this Act are—

14 (1) to establish fair and uniform standards reg-
15 ulating access to the ballot by eligible citizens who
16 desire to seek election to the U.S. House of Rep-
17 resentatives and political parties, bodies and groups
18 which desire to take part in elections to the U.S.
19 House of Representatives; and

20 (2) to maximize the participation of eligible citi-
21 zens in elections for Federal office.

22 **SEC. 3. BALLOT ACCESS RIGHTS.**

23 (a) IN GENERAL.—An individual shall have the right
24 to be placed as a candidate on, and to have such individ-
25 ual's political party, body, or group affiliation in connec-

1 tion with such candidacy placed on, a ballot or similar vot-
2 ing materials to be used in a Congressional election, if—

3 (1) such individual presents a petition stating
4 in substance that its signers desire such individual's
5 name and political party, body or group affiliation,
6 if any, to be placed on the ballot or other similar
7 voting materials to be used in the election with re-
8 spect to which such rights are to be exercised;

9 (2) such petition has at least 1,000 signatures
10 of persons who are registered to vote in the district,
11 or, if the State in which the district is located does
12 not provide for voter registration, such petition must
13 bear the signatures of at least 1,000 persons who
14 are eligible to vote in that State and that district;

15 (3) with respect to an election the date of which
16 was fixed 345 or more days in advance, such peti-
17 tion was circulated during a period beginning on the
18 345th day and ending on the 75th day before the
19 date of the election; and

20 (4) with respect to an election the date of which
21 was fixed less than 345 days in advance, such peti-
22 tion was circulated during a period established by
23 the State holding the election, or, if no such period
24 was established, during a period beginning on the
25 day after the date the election was scheduled and

1 ending on the thirtieth day before the date of the
2 election.

3 (b) SAVINGS PROVISION.—Subsection (a) shall not
4 apply with respect to any State that provides by law for
5 greater ballot access rights than the ballot access rights
6 provided for under such subsection.

7 **SEC. 4. RULEMAKING.**

8 The Attorney General shall make rules to carry out
9 this Act.

10 **SEC. 5. GENERAL DEFINITIONS.**

11 As used in this Act—

12 (1) the term “Congressional election” means a
13 general or special election for the office of Rep-
14 resentative in, or Delegate or Resident Commis-
15 sioner to, the Congress;

16 (2) the term “State” means a State of the
17 United States, the District of Columbia, the Com-
18 monwealth of Puerto Rico, and any other territory
19 or possession of the United States;

20 (3) the term “individual” means an individual
21 who has the qualifications required by law of a per-
22 son who holds the office for which such individual
23 seeks to be a candidate;

24 (4) the term “petition” includes a petition
25 which conforms to section 3(a)(1) and upon which

1 signers' addresses and/or printed names are required
2 to be placed;

3 (5) the term "signer" means a person whose
4 signature appears on a petition and who can be
5 identified as a person qualified to vote for an indi-
6 vidual for whom the petition is circulated, and in-
7 cludes a person who requests another to sign a peti-
8 tion on his or her behalf at the time when, and at
9 the place where, the request is made;

10 (6) the term "signature" includes the incom-
11 plete name of a signer, the name of a signer con-
12 taining abbreviations such as first or middle initial,
13 and the name of a signer preceded or followed by ti-
14 tles such as "Mr.," "Ms.," "Dr.," "Jr.," or "III";
15 and

16 (7) the term "address" means the address
17 which a signer uses for purposes of registration and
18 voting.

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