H. R. 1799

To amend the Voting Rights Act of 1965 to revise the criteria for determining which States and political subdivisions are subject to section 4 of the Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 14, 2019

Mr. Sensenbrenner (for himself, Mr. Hurd of Texas, Mrs. Beatty, Mr. Fitzpatrick, Mr. Gallego, Mr. Cohen, Mr. Cooper, Ms. Schakowsky, Mr. Swalwell of California, Mr. Cole, Miss Rice of New York, Ms. Moore, Mr. Crist, Mr. Turner, and Mr. Peters) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Voting Rights Act of 1965 to revise the criteria for determining which States and political subdivisions are subject to section 4 of the Act, and for other purposes.

1

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Voting Rights Amend-

5 ment Act of 2019”.

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SEC. 2. VIOLATIONS TRIGGERING AUTHORITY OF COURT TO RETAIN JURISDICTION.

(a) TYPES OF VIOLATIONS.—Section 3(e) of the Voting Rights Act of 1965 (52 U.S.C. 10302(e)) is amended by striking “violations of the fourteenth or fifteenth amendment” and inserting “violations of the 14th or 15th Amendment; violations of this Act (other than a violation of section 2(a) which is based on the imposition of a requirement that an individual provide a photo identification as a condition of receiving a ballot for voting in an election for Federal, State, or local office); or violations of any Federal voting rights law that prohibits discrimination on the basis of race, color, or membership in a language minority group,”.

(b) CONFORMING AMENDMENT.—Section 3(a) of such Act (52 U.S.C. 10302(a)) is amended by striking “violations of the fourteenth or fifteenth amendment” and inserting “violations of the 14th or 15th Amendment, violations of this Act, or violations of any Federal voting rights law that prohibits discrimination on the basis of race, color, or membership in a language minority group,”.

SEC. 3. CRITERIA FOR COVERAGE OF STATES AND POLITICAL SUBDIVISIONS.

(a) DETERMINATION OF STATES AND POLITICAL SUBDIVISIONS SUBJECT TO SECTION 4(a).—
(1) IN GENERAL.—Section 4(b) of the Voting Rights Act of 1965 (52 U.S.C. 10303(b)) is amended to read as follows:

“(b) DETERMINATION OF STATES AND POLITICAL SUBDIVISIONS SUBJECT TO REQUIREMENTS.—

“(1) Existence of voting rights violations during previous 15 years.—

“(A) Statewide application.—Subsection (a) applies with respect to a State and all political subdivisions within the State during a calendar year if 5 or more voting rights violations occurred in the State during the previous 15 calendar years, at least one of which was committed by the State itself (as opposed to a political subdivision within the State).

“(B) Application to specific political subdivisions.—Subsection (a) applies with respect to a political subdivision during a calendar year if—

“(i) 3 or more voting rights violations occurred in the subdivision during the previous 15 calendar years; or

“(ii) 1 or more voting rights violations occurred in the subdivision during the previous 15 calendar years and the subdivi-
tion had persistent, extremely low minority turnout during the previous 15 calendar years.

“(2) Period of Application.—

“(A) In General.—Except as provided in subparagraph (B), if, pursuant to paragraph (1), subsection (a) applies with respect to a State or political subdivision during a calendar year, subsection (a) shall apply with respect to such State or political subdivision for the period—

“(i) that begins on January 1 of the year in which subsection (a) applies pursuant to the applicable provisions of paragraph (1); and

“(ii) that ends on the date which is 10 years after January 1 of the year in which the most recent voting rights violation occurred in the State or political subdivision.

“(B) No Further Application After Declaratory Judgment.—

“(i) States.—If a State obtains a declaratory judgment under subsection (a), and the judgment remains in effect, subsection (a) shall no longer apply to such
State pursuant to paragraph (1)(A) unless, after the issuance of the declaratory judgment, paragraph (1)(A) applies to the State solely on the basis of voting rights violations occurring after the issuance of the declaratory judgment.

“(ii) Political subdivisions.—If a political subdivision obtains a declaratory judgment under subsection (a), and the judgment remains in effect, subsection (a) shall no longer apply to such political subdivision pursuant to paragraph (1), including pursuant to paragraph (1)(A) (relating to the statewide application of subsection (a)), unless, after the issuance of the declaratory judgment, paragraph (1)(B) applies to the political subdivision solely on the basis of voting rights violations (and, in the case of paragraph (1)(B)(ii), extremely low minority turnout) occurring after the issuance of the declaratory judgment.

“(3) Determination of voting rights violation.—For purposes of paragraph (1), a voting
rights violation occurred in a State or political sub-

division if any of the following applies:

“(A) In a final judgment (which has not been reversed on appeal), any court of the United States has determined that a denial or abridgement of the right of any citizen of the United States to vote on account of race, color, or membership in a language minority group, in violation of the 14th or 15th Amendment, oc-
curred anywhere within the State or subdivi-

sion.

“(B) In a final judgment (which has not been reversed on appeal), any court of the United States has determined that a voting qualification or prerequisite to voting or stand-

ard, practice, or procedure with respect to vot-
ing was imposed or applied or would have been imposed or applied anywhere within the State or subdivision in a manner that resulted or would have resulted in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in con-

travention of the guarantees set forth in sub-
section (f)(2), in violation of section 2.
“(C) In a final judgment (which has not been reversed on appeal), any court of the United States has denied the request of the State or subdivision for a declaratory judgment under section 3(c) or section 5, and thereby prevented a voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting from being enforced anywhere within the State or subdivision.

“(D) The Attorney General has interposed an objection under section 3(c) or section 5 (and the objection has not been overturned by a final judgment of a court or withdrawn by the Attorney General), and thereby prevented a voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting from being enforced anywhere within the State or subdivision, other than an objection which is based on a voting qualification or procedure which consists of the imposition of a requirement that an individual provide a photo identification as a condition of receiving a ballot for voting in an election for Federal, State, or local office.
“(4) Determination of persistent, extremely low minority turnout.—For purposes of paragraph (1)(B)(ii), a political subdivision has persistent, extremely low minority turnout with respect to a calendar year if any of the following applies:

“(A) With respect to the general elections for the office of President which were held in the political subdivision during the previous 15 calendar years—

“(i) in the majority of such elections, the minority turnout rate in the political subdivision was below—

“(I) the minority turnout rate for the entire Nation;

“(II) the nonminority turnout rate for the entire Nation;

“(III) the minority turnout rate for the State in which the political subdivision is located;

“(IV) the nonminority turnout rate for the State in which the political subdivision is located; and

“(V) the nonminority turnout rate for the political subdivision; and
“(ii) the average minority turnout rate across all such elections in the political subdivision was more than 10 percentage points below the average nonminority turnout rate for the entire Nation.

“(B) With respect to the general elections for Federal office which were held in the political subdivision during the previous 15 calendar years—

“(i) in the majority of such elections, the minority turnout rate in the political subdivision was below—

“(I) the minority turnout rate for the State in which the political subdivision is located;

“(II) the nonminority turnout rate for the State in which the political subdivision is located; and

“(III) the nonminority turnout rate for the political subdivision; and

“(ii) the average minority turnout rate across all such elections in the political subdivision was more than 10 percentage points below the average nonminority turnout rate for the entire Nation.
turnout rate for the State in which the po-
itical subdivision is located.

“(5) TIMING OF DETERMINATIONS.—

“(A) Determinations of voting rights
violations.—As early as practicable during
each calendar year, the Attorney General shall
make the determinations required by this sub-
section (other than the determinations de-
scribed in subparagraph (B)), including updat-
ing the list of voting rights violations attrib-
utable to each State and political subdivision
for the previous calendar year.

“(B) Determinations of turnout
rates.—As early as practicable during each
odd-numbered calendar year, the Attorney Gen-
eral, in consultation with the heads of the rel-
evant offices of the government, shall make the
determinations of turnout rates required by this
subsection, including the minority and non-
minority turnout rates for the general elections
for Federal office held in the previous year in
each State and political subdivision (expressed
as percentages of the citizen voting-age popu-
lation of the State and subdivision and deter-
mined using scientifically accepted statistical methodologies).

“(C) Effective upon publication in Federal Register.—A determination or certification of the Attorney General under this section or under section 8 or 13 shall be effective upon publication in the Federal Register.

“(6) Other definitions.—In this subsection, the following definitions apply:

“(A) The term ‘general election for Federal office’ means a general election held solely or in part for the purpose of electing any candidate for the office of President, Vice President, Presidential elector, Senator, Member of the House of Representatives, or Delegate or Resident Commissioner to the Congress.

“(B) The term ‘minority’ means persons who identify themselves as being—

“(i) of Hispanic or Latino origin;

“(ii) of a race other than White; or

“(iii) of 2 or more races.

“(C) The term ‘nonminority’ means persons who identify themselves as being—

“(i) not of Hispanic or Latino origin;

“(ii) White; and
“(iii) not of any other race.

“(D) The term ‘turnout rate’ means, with respect to a demographic group and an election, the amount (expressed as a percentage) equal to the quotient of—

“(i) the number of individuals in that group who are citizens of the United States, who are 18 years of age or older on the date of the election, and who cast ballots in the election; divided by

“(ii) the total number of individuals in that group who are citizens of the United States and who are 18 years of age or older on the date of the election.”.

(2) CONFORMING AMENDMENTS.—Section 4(a) of such Act (52 U.S.C. 10303(a)) is amended—

(A) in paragraph (1) in the first sentence of the matter preceding subparagraph (A), by striking “any State with respect to which” and all that follows through “unless” and inserting “any State to which this subsection applies during a calendar year pursuant to determinations made under subsection (b), or in any political subdivision of such State (as such subdivision existed on the date such determinations were made)”
made with respect to such State), though such
determinations were not made with respect to
such subdivision as a separate unit, or in any
political subdivision with respect to which this
subsection applies during a calendar year pur-
suant to determinations made with respect to
such subdivision as a separate unit under sub-
section (b), unless”;

(B) in paragraph (1) in the matter pre-
ceding subparagraph (A), by striking the second
sentence;

(C) in paragraph (1)(A), by striking “(in
the case of a State or subdivision seeking a de-
claratory judgment under the second sentence
of this subsection)”;

(D) in paragraph (1)(B), by striking “(in
the case of a State or subdivision seeking a de-
claratory judgment under the second sentence
of this subsection)”;

(E) in paragraph (3), by striking “(in the
case of a State or subdivision seeking a declar-
tory judgment under the second sentence of this
subsection)”;

(F) in paragraph (5), by striking “(in the
case of a State or subdivision which sought a
declaratory judgment under the second sentence of this subsection’’; and

(G) by striking paragraphs (7) and (8).

(b) Clarification of Treatment of Members of Language Minority Groups.—Section 4(a)(1) of such Act (52 U.S.C. 10303(a)(1)) is amended by striking ‘‘race or color,’’ and inserting ‘‘race or color or in contravention of the guarantees of subsection (f)(2),’’.

(e) Repeal of Retention of Jurisdiction of 3-Judge Court.—Section 4(a)(5) of such Act (52 U.S.C. 10303(a)(5)) is amended by striking the second and third sentences.

SEC. 4. PROMOTING TRANSPARENCY TO ENFORCE THE VOTING RIGHTS ACT.

(a) Transparency.—

(1) In general.—The Voting Rights Act of 1965 (52 U.S.C. 10301 et seq.) is amended by inserting after section 5 the following new section:

‘‘TRANSPARENCY REGARDING CHANGES TO PROTECT VOTING RIGHTS

“Sec. 6. (a) Notice of Enacted Changes.—

“(1) Notice of changes.—If a State or political subdivision makes any change in any prerequisite to voting or standard, practice, or procedure affecting voting in any election for Federal office that will result in the prerequisite, standard,
practice, or procedure being different from that
which was in effect as of 180 days before the date
of the election, the State or political subdivision shall
provide reasonable public notice in such State or po-
litical subdivision and on the internet, in a reason-
ably convenient and accessible format, of a concise
description of the change, including the difference
between the changed prerequisite, standard, practice,
or procedure and the prerequisite, standard, prac-
tice, or procedure which was previously in effect.

“(2) Deadline for notice.—A State or polit-
ical subdivision shall provide the public notice re-
quired under paragraph (1) not later than 48 hours
after making the change involved.

“(b) Transparency regarding polling place
resources.—

“(1) In general.—In order to identify any
changes that may impact the right to vote of any
person, prior to the 30th day before the date of an
election for Federal office, each State or political
subdivision with responsibility for allocating reg-
istered voters, voting machines, and official poll
workers to particular precincts and polling places
shall provide reasonable public notice in such State
or political subdivision and on the internet, in a rea-
sonably convenient and accessible format, of the in-
formation described in paragraph (2) for precincts
and polling places within such State or political sub-
division.

“(2) INFORMATION DESCRIBED.—The informa-
tion described in this paragraph with respect to a
precinct or polling place is as follows:

“(A) The name or number.

“(B) In the case of a polling place, the lo-
cation, including the street address.

“(C) The voting-age population of the area
served by the precinct or polling place, broken
down by demographic group if such breakdown
is reasonably available to such State or political
subdivision.

“(D) The number of registered voters as-
signed to the precinct or polling place, broken
down by demographic group if such breakdown
is reasonably available to such State or political
subdivision.

“(E) The number of voting machines as-
signed.

“(F) The number of official paid poll
workers assigned.
“(G) The number of official volunteer poll
workers assigned.

“(H) In the case of a polling place, the
dates and hours of operation.

“(3) Updates in information reported.—
If a State or political subdivision makes any change
in any of the information described in paragraph
(2), the State or political subdivision shall provide
reasonable public notice in such State or political
subdivision and on the internet, in a reasonably con-
venient and accessible format, of the change in the
information not later than 48 hours after the change
occurs or, if the change occurs fewer than 48 hours
before the date of the election, as soon as practicable
after the change occurs.

“(c) Transparency of Changes Relating to De-
MOGRAPHICS AND ELECTORAL DISTRICTS.—

“(1) Requiring public notice of
changes.—Not later than 10 days after making
any change in the constituency that will participate
in an election for Federal, State, or local office or
the boundaries of a voting unit or electoral district
in an election for Federal, State, or local office (in-
cluding through redistricting, reapportionment,
changing from at-large elections to district-based
elections, or changing from district-based elections
to at-large elections), a State or political subdivision
shall provide reasonable public notice in such State
or political subdivision and on the internet, in a rea-
sonably convenient and accessible format, of the de-
mographic and electoral data described in paragraph
(3) for each of the geographic areas described in
paragraph (2).

“(2) GEOGRAPHIC AREAS DESCRIBED.—The ge-
ographic areas described in this paragraph are as
follows:

“(A) The State as a whole, if the change
applies statewide, or the political subdivision as
a whole, if the change applies across the entire
political subdivision.

“(B) If the change includes a plan to re-
place or eliminate voting units or electoral dis-
tricts, each voting unit or electoral district that
will be replaced or eliminated.

“(C) If the change includes a plan to es-
establish new voting units or electoral districts,
each such new voting unit or electoral district.

“(3) DEMOGRAPHIC AND ELECTORAL DATA.—
The demographic and electoral data described in this
paragraph with respect to a geographic area de-
scribed in paragraph (2) are as follows:

“(A) The voting age population, broken
down by demographic group.

“(B) If it is reasonably available to the
State or political subdivision involved, an esti-
mate of the population of the area which con-
sists of citizens of the United States who are 18
years of age or older, broken down by demo-
graphic group.

“(C) The number of registered voters, bro-
ken down by demographic group if such break-
down is reasonably available to the State or po-
litical subdivision involved.

“(D) The actual number of votes, or (if it
is not reasonably practicable for the State or
political subdivision to ascertain the actual
number of votes) the estimated number of votes
received by each candidate in each statewide
election and (if the change applies to only one
political subdivision) in each subdivision-wide
election held during the 5-year period which
ends on the date the change involved is made.

“(4) VOLUNTARY COMPLIANCE BY SMALLER JU-
RISDICTIONS.—Compliance with this subsection shall
be voluntary for a political subdivision of a State unless the subdivision is one of the following:

“(A) A county or parish.

“(B) A municipality with a population greater than 10,000, as determined under the most recent decennial census.

“(C) A school district with a population greater than 10,000, as determined under the most recent decennial census. For purposes of this paragraph, the term ‘school district’ means the geographic area under the jurisdiction of a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965).

“(d) Rules Regarding Format of Information.—The Attorney General may issue rules specifying a reasonably convenient and accessible format that States and political subdivisions shall use to provide public notice of information under this section.

“(e) No Denial of Right To Vote.—The right to vote of any person shall not be denied or abridged because the person failed to comply with any change made by a State or political subdivision if the State or political subdivision involved did not meet the applicable requirements of this section with respect to the change.
“(f) DEFINITIONS.—In this section—

“(1) the term ‘demographic group’ means each group which section 2 protects from the denial or abridgement of the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2); and

“(2) the term ‘election’ means, with respect to Federal office, any general, special, primary, or run-off election held solely or in part for the purpose of electing any candidate for the office of President, Vice President, Presidential elector, Senator, Member of the House of Representatives, or Delegate or Resident Commissioner to the Congress.”.

(2) CONFORMING AMENDMENT.—Section 3(a) of such Act (52 U.S.C. 10302(a)) is amended by striking “in accordance with section 6”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply with respect to changes which are made on or after the expiration of the 60-day period which begins on the date of the enactment of this Act.

SEC. 5. AUTHORITY TO ASSIGN OBSERVERS.

(a) CLARIFICATION OF AUTHORITY IN POLITICAL SUBDIVISIONS SUBJECT TO PRECLEARANCE.—Section 8(a)(2)(B) of the Voting Rights Act of 1965 (52 U.S.C. 10305(a)(2)(B)) is amended to read as follows:
“(B) in the Attorney General’s judgment, the assignment of observers is otherwise necessary to enforce the guarantees of the 14th or 15th Amendment or any provision of this Act or any other law of the United States protecting the right of citizens of the United States to vote;”.

(b) ASSIGNMENT OF OBSERVERS TO ENFORCE BILINGUAL ELECTION REQUIREMENTS.—Section 8(a) of such Act (52 U.S.C. 10305(a)) is amended—

(1) by striking “or” at the end of paragraph (1);
(2) by adding “or” at the end of paragraph (2); and
(3) by inserting after paragraph (2) the following new paragraph:

“(3) the Attorney General certifies with respect to a political subdivision that—

“(A) the Attorney General has received written meritorious complaints from residents, elected officials, or civic participation organizations that efforts to violate section 203 are likely to occur; or

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“(B) in the Attorney General’s judgment, the assignment of observers is necessary to enforce the guarantees of section 203;”.

SEC. 6. INJUNCTIVE RELIEF.

(a) Clarification of Scope and Persons Authorized to Seek Relief.—Section 12(d) of the Voting Rights Act of 1965 (52 U.S.C. 10308(d)) is amended—

(1) by striking “section 2, 3, 4, 5, 7, 10, 11, or subsection (b) of this section” and inserting “the 14th or 15th Amendment, this Act, or any Federal voting rights law that prohibits discrimination on the basis of race, color, or membership in a language minority group”; and

(2) by striking “the Attorney General may institute for the United States, or in the name of the United States,” and inserting “the aggrieved person or (in the name of the United States) the Attorney General may institute”.

(b) Grounds for Granting Relief.—Section 12(d) of such Act (52 U.S.C. 10308(d)) is amended—

(1) by striking “(d) Whenever any person” and inserting “(d)(1) Whenever any person”;

(2) by striking “(1) to permit” and inserting “(A) to permit”;
• by striking “(2) to count” and inserting “(B) to count”; and
• by adding at the end the following new paragraph:

“(2)(A) In any action for relief described in this subsection, the court shall grant the relief if the court determines that, on balance, the hardship imposed upon the defendant by the issuance of the relief will be less than the hardship which would be imposed upon the plaintiff if the relief were not granted.

“(B) In making its determination under this paragraph with respect to a change in any voting qualification, prerequisite to voting, or standard, practice, or procedure affecting voting, the court shall consider the following factors (to the extent applicable to the action):

“(i) Whether the qualification, prerequisite, standard, practice, or procedure in effect prior to the change was adopted as a remedy for a Federal court judgment, consent decree, or admission regarding—

“(I) discrimination on the basis of race or color in violation of the 14th or 15th Amendment;

“(II) a violation of this Act; or

“(III) voting discrimination on the basis of race, color, or membership in a language minor-
ity group in violation of any other Federal or State law.

“(ii) Whether the qualification, prerequisite, standard, practice, or procedure in effect prior to the change served as a ground for the dismissal or settlement of a claim alleging—

“(I) discrimination on the basis of race or color in violation of the 14th or 15th Amendment;

“(II) a violation of this Act; or

“(III) voting discrimination on the basis of race, color, or membership in a language minority group in violation of any other Federal or State law.

“(iii) Whether the change was adopted fewer than 180 days before the date of the election with respect to which it is to take effect.

“(iv) Whether the defendant has failed to provide timely or complete notice of the adoption of the change as required by applicable Federal or State law.”.
SEC. 7. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) ACTIONS COVERED UNDER SECTION 3.—Section 3(c) of the Voting Rights Act of 1965 (52 U.S.C. 10302(c)) is amended—

(1) by striking “any proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce” and inserting “any action under any statute in which a party (including the Attorney General) seeks to enforce”; and

(2) by striking “at the time the proceeding was commenced” and inserting “at the time the action was commenced”.

(b) CLARIFICATION OF TREATMENT OF MEMBERS OF LANGUAGE MINORITY GROUPS.—Section 4(f) of such Act (52 U.S.C. 10303(f)) is amended—

(1) in paragraph (1), by striking the second sentence; and

(2) by striking paragraphs (3) and (4).

(c) PERIOD DURING WHICH CHANGES IN VOTING PRACTICES ARE SUBJECT TO PRECLEARANCE UNDER SECTION 5.—Section 5 of such Act (52 U.S.C. 10304) is amended—

(1) in subsection (a), by striking “based upon determinations made under the first sentence of sec-
tion 4(b) are in effect” and inserting “are in effect during a calendar year”;

(2) in subsection (a), by striking “November 1, 1964” and all that follows through “November 1, 1972” and inserting “the applicable date of coverage”; and

(3) by adding at the end the following new subsection:

“(e) The term ‘applicable date of coverage’ means, with respect to a State or political subdivision—

“(1) June 25, 2013, if the most recent determination for such State or subdivision under section 4(b) was made on or before December 31, 2015; or

“(2) the date on which the most recent determination for such State or subdivision under section 4(b) was made, if such determination was made after December 31, 2015.”.