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

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 “Right to Vote Act”.

SEC. 2. UNDUE BURDENS ON THE ABILITY TO VOTE IN ELECTIONS FOR FEDERAL OFFICE PROHIBITED.

(a) IN GENERAL.—Every citizen of legal voting age shall have the fundamental right to vote in elections for Federal office.
(b) RETROGRESSION.—A government may not dimin-
ish the ability to vote in an election for Federal office un-
less the law, rule, standard, practice, procedure, or other
governmental action causing the diminishment is the least
restrictive means of significantly furthering an important,
particularized government interest.

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

SEC. 3. JUDICIAL REVIEW.

(a) CIVIL ACTION.—An action challenging a violation
of the rights created by this Act may be brought in the
district court for the District of Columbia, or the district
court for the district in which the violation took place or
where any defendant resides or does business, at the selec-
tion of the plaintiff, to obtain all appropriate relief, wheth-
er declaratory or injunctive, or facial or as-applied. Process may be served in any district where a defendant resides, does business, or may be found.

(b) Standards To Be Applied.—Courts adjudicating actions brought to enforce the rights created by this Act shall apply the following standards:

(1) Retrogression.—

(A) A plaintiff establishes a prima facie case of retrogression by demonstrating by a preponderance of the evidence that a rule, standard, practice, procedure, or other governmental action diminishes the ability, or otherwise makes it more difficult, to vote.

(B) Once a plaintiff establishes a prima facie case as described in subparagraph (A), the government shall be provided an opportunity to demonstrate by clear and convincing evidence that the diminishment is necessary to significantly further an important, particularized governmental interest.

(C) If the government meets its burden under subparagraph (B), the challenged rule, standard, practice, procedure, or other governmental action shall nonetheless be deemed invalid if the plaintiff demonstrates by a prepon-
derance of the evidence that the government could adopt or implement a less-restrictive means of furthering the particular important governmental interest.

(2) SUBSTANTIAL IMPAIRMENT.—

(A) A plaintiff establishes a prima facie case of substantial impairment by demonstrating by a preponderance of the evidence that a rule, standard, practice, procedure, or other governmental action substantially impairs the ability, or makes it substantially difficult, to vote.

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

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

(d) ATTORNEY’S FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—
(1) by striking “or section 40302” and inserting “section 40302”; and
(2) by striking “, the court” and inserting “, or the Right to Vote Act, the court”.

SEC. 4. DEFINITIONS.

In this Act—

(1) the term “covered entity” means the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States;

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

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

(4) the term “vote” means all actions necessary to make a vote effective, including registration or other action required by law as a prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast.
with respect to candidates for public office for which votes are received in an election.

SEC. 5. RULES OF CONSTRUCTION.

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

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

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

SEC. 6. SEVERABILITY.

If any provision of this Act or the application of such provision to any citizen or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any citizen or circumstance shall not be affected thereby.

SEC. 7. EFFECTIVE DATES.

(a) RETROGRESSION.—Subsection (b) of section 2 shall apply to any law, rule, standard, practice, procedure,
or other governmental action that was not in effect during
the November 2020 Federal election but that will be in
effect with respect to elections for Federal office occurring
on or after January 1, 2022, even if such law, rule, stand-
ard, practice, procedure, or other governmental action is
already in effect at the time this Act is enacted.

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