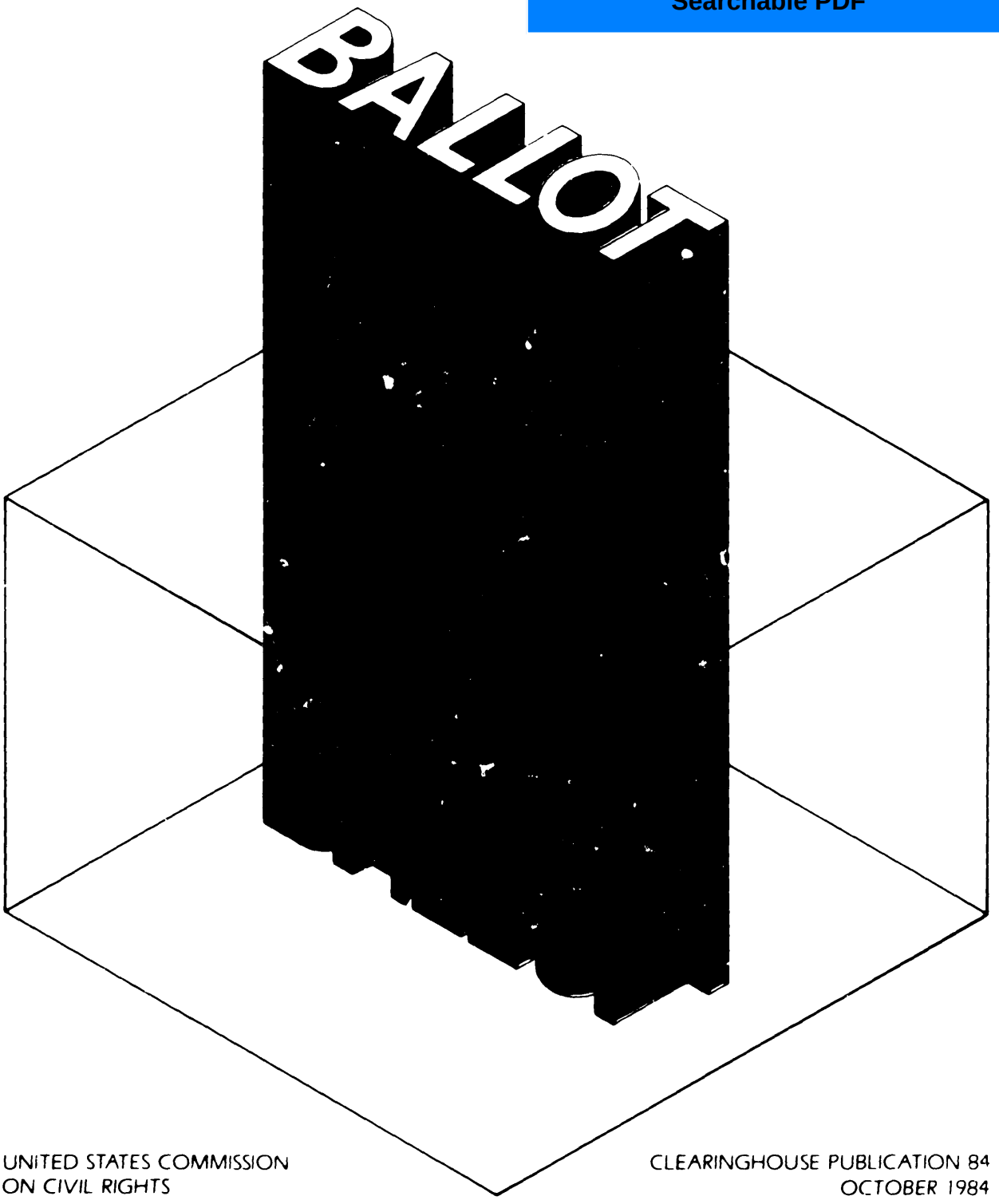
A CITIZEN'S GUIDE TO UNDERSTANDING THE VOTING RIGHTS ACT



UNITED STATES COMMISSION
ON CIVIL RIGHTS

CLEARINGHOUSE PUBLICATION 84
OCTOBER 1984

U.S. COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights is an independent, bipartisan agency first established by Congress in 1957 and reestablished in 1983. It is directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, handicap, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin;
- Submit reports, findings, and recommendations to the President and the Congress.

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II

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Chapter 1

Introduction

Since passage of the Voting Rights Act of 1965, minority political participation has increased significantly. This increase is primarily due to the act's effectiveness in preventing State and local officials from using voting practices or procedures that discriminate against minorities in purpose or effect. Prior to passage of the Voting Rights Act, the right to vote, guaranteed under the 14th and 15th amendments to the U.S. Constitution, was a right that minorities in many parts of the country seldom freely exercised. In some areas, voting discrimination was blatant and pervasive. Discriminatory use of literacy tests as a precondition to registering or voting, racial gerrymandering, intimidation and harassment, and physical violence commonly were used to prevent minorities from registering and voting. Moreover, when court decisions prohibited the use of one type of discriminatory voting practice, State and local officials then would enact new laws that would be just as effective in preventing minorities from participating in the political process. It was against this background of widespread voting discrimination that the Voting Rights Act of 1965 was passed.

The Voting Rights Act has several provisions. Some are nationwide, permanent provisions that are sometimes referred to as the general provisions. They provide important voting protections. Four key provisions:

- Abolish requirements that a person live in a State or political subdivision for a certain period of time as a precondition to voting for President and Vice President;
- Establish nationwide, uniform standards for absentee registration and voting in Presidential elections;
- Prohibit the use of literacy tests or devices as a precondition to registering or voting in any Federal, State, or local election; and
- Prohibit the use of voting laws, practices, or procedures that discriminate on the basis of race, color, or inclusion in a minority language group covered by the act.

In addition to these provisions, the act also contains general provisions that prohibit State and local officials from interfering in any way with an individual's right to vote. If such interference occurs, the offender will be subject to an injunction, a fine, or imprisonment.

The Voting Rights Act also contains temporary provisions, commonly referred to as the special provisions. These special provisions are the heart of the act. They are directed at eradicating voting discrimination in areas where it was widespread. The States and political subdivisions to which the special provisions apply had used literacy tests and other types of tests or devices to prevent minorities from registering and voting. Consequently, registration or voter turnout in these jurisdictions was low. These jurisdictions also had a history of circumventing the law by continuously devising new ways to discriminate once the old ways were prohibited by legislation or court decree.

The 1965 act had two special provisions. These are the original special provisions. Jurisdictions covered by them were subject to the following requirements:

1. They had to obtain Federal review of all changes in voting practices or procedures prior to implementing them and prove that these changes did not discriminate against minorities in purpose or effect; and

2. The Attorney General of the United States could authorize the use of Federal personnel to register voters and observe the election process.

These special provisions were aimed primarily at prohibiting voting discrimination against blacks. When the Voting Rights Act was being considered for extension in 1975, testimony was presented showing that members of some minority language groups were victims of the same types of discriminatory practices used to prevent blacks from voting, such as racial gerrymandering, intimidation, and harassment. Moreover, testimony was presented showing that the use of English-only elections had the same effect as literacy tests in preventing some language minorities (see "Definitions" at end of this chapter) who were not fluent in English from participating in the political process. Based on findings that the 14th amendment right to vote was denied to some minority language citizens, the 1975 amendments to the Voting Rights Act extended the special provisions to areas where minority language groups were the victims of discrimination, as evidenced by low voter registration or turnout. Congress also added another special provision requiring States and political subdivisions with significant minority language populations that had a high illiteracy rate to provide bilingual assistance in voting.

Significant gains in minority political participation have been recorded since passage of the Voting Rights Act. For example, black registration in Mississippi, one of the States covered by the special provisions, went from 6.7 percent of the total black voting age population in March 1965 to 67.4 percent in 1976. The number of black elected officials in the 7 Southern States wholly or partially covered by the Voting Rights Act (Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia) was less than 100 before the Voting Rights Act. According to statistics released by the Joint Center for Political Studies, that number had increased to 1,930 by 1982. Hispanic political participation also has increased significantly since passage of the act. Although pre-act data on Hispanic registration are not available, Hispanic registration in Texas was estimated to be 61.1 percent of the total Hispanic voting age population in 1976, 1 year after the State was covered by the special provisions. Similarly, according to statistics released by the Southwest Voter Education Registration Project, there were only 12 Hispanic State legislators in Texas in 1970. By 1982 that number had increased to 22.

The special provisions of the Voting Rights Act were extended in 1970, 1975, and in 1982. In addition, other amendments were enacted in 1982 that provide important voting protections. In summary, the following amendments were passed in 1982:

1. The special provisions requiring Federal review of voting changes and authorizing the use of Federal personnel to register voters and observe elections were extended through the year 2007, an additional 25 years.
2. The special provision requiring bilingual assistance in voting was extended through August 6, 1992, an additional 7 years (before the 1982 amendments, these provisions were scheduled to expire in 1985);
3. New procedures for determining how jurisdictions could remove themselves from coverage under the special provisions were enacted;
4. Section 2, the nationwide provision prohibiting discrimination in voting, was amended; and
5. A new nationwide provision was enacted requiring that when voting assistance is given to blind or disabled voters or those unable to read or write, the voter must be allowed to choose the person who will give the assistance (with some limitations).

This pamphlet explains the key provisions of the Voting Rights Act, including the 1982 amendments to the act. It is published in furtherance of the responsibility of the U.S. Commission on Civil Rights to "serve as a national clearinghouse for information concerning denials of equal protection of the laws. . . ." Its purpose is to help minority citizens understand their rights under the act so that they can participate fully in the American political process. It is important that citizens understand these rights because the community role in enforcing the Voting Rights Act is so critical. Although the Department of Justice is responsible for enforcing the Voting Rights Act, it frequently looks to representatives of the minority community for assistance in identifying voting rights violations. Indeed, as you read this pamphlet, you will observe that regulations or guidelines implementing various provisions of the act encourage the minority community to provide information.

Chapter 2 explains amendments to the general provisions of the Voting Rights Act. The first section of this chapter discusses the amendment to section 2 of the act, the section prohibiting voting discrimination on a nationwide basis. The second section explains the

new voting assistance statute that requires State and local officials to provide assistance in voting to persons who are blind, disabled, or unable to read or write. Chapter 3 begins the discussion of the special provisions of the Voting Rights Act. This chapter explains section 5 of the act, the section requiring Federal review of voting changes; and chapter 4 explains the provisions authorizing the use of Federal examiners and observers to register voters and observe elections. Chapter 5 focuses on the new procedures by which jurisdictions remove themselves from coverage under the special provisions discussed in chapters 3 and 4. Finally, chapter 6 explains the minority language provisions, which require certain States and political subdivisions to provide bilingual assistance in voting.

Each chapter discusses the various ways citizens can become involved in enforcing the Voting Rights Act. For example, chapter 3, Preclearance, explains how interested groups or individuals can comment on the effect of proposed changes in voting laws on minority citizens in jurisdictions covered by the special provisions. Similarly, chapter 6, the Minority Language Provisions, explains how local community groups can assist local election officials in implementing these provisions.

Definitions

In the Voting Rights Act or in Department of Justice guidelines enforcing the act, certain terms have specific legal definitions. Among the most important are:

Voting—Includes all action necessary to make a vote for public or party office effective, including, but not limited to, registration and casting a ballot

Test or device—any requirement that a person must do any of the following in order to register or vote:

(1) demonstrate the ability to read, write, understand, or interpret any matter;

(2) demonstrate any educational achievement or knowledge of any particular subject;

(3) prove his (her) qualifications by having another person (such as a registered voter) vouch for him (her);

(4) possess good moral character;

(5) register or vote only in English in jurisdictions where the U.S. Bureau of the Census has determined that more than 5 percent of the citizens of voting age are members of a single language minority.

Language minority—a person who is American Indian, Asian American, Alaska Native, or of Spanish heritage.

Political subdivision—a county, parish, town, or other subdivision of a State that conducts voter registration;

Illiteracy—failure to complete the fifth primary grade.

Preclearance—obtaining a declaratory judgment that a new voting change is not discriminatory in purpose or effect or failure of the U.S. Attorney General to object to a new voting change.

Submission—the written presentation to the Attorney General by an appropriate official of any change affecting voting.

Submitting authority—the jurisdiction on whose behalf a submission involving a change affecting voting is made.

In this pamphlet, the following terms are also used:

Jurisdiction—a general term referring collectively to different governmental entities, including States, counties, cities, towns, special purpose districts (such as school districts), etc.

Covered jurisdictions—a general term referring collectively to different governmental entities that are covered by the special provisions of the Voting Rights Act.

Chapter 2

General Voting Protections

Section 2 of the Voting Rights Act

Section 2 of the Voting Rights Act is a nationwide provision that prohibits the use of voting laws, practices, or procedures that discriminate on the basis of race, color, or membership in a minority language group covered by the act. Lawsuits filed under this section can be brought in local Federal district courts either by the U.S. Attorney General or by private citizens. All types of voting practices or procedures are covered by section 2, including those relating to registration, voting, qualifications for candidacy, and the type of election system. Specific examples of voting practices or procedures covered by this section include placing polling locations in areas more accessible to the white community than to the minority community, using restrictive registration hours that make it more difficult for minorities to register than for whites, and racial gerrymandering (i.e., drawing boundary lines for legislative districts in a way that discriminates against minorities).

Standard of Proof

Under its authority to enforce the voting guarantees of the 15th amendment, Congress amended section 2 in 1982 to provide minorities an effective means of challenging alleged discriminatory voting practices. Prior to the 1982 amendments, a plurality opinion of the Supreme Court of the United States held that section 2 required proof that an alleged discriminatory voting practice or procedure was adopted or maintained with a discriminatory intent. The amended section 2 states that proof of discriminatory result is sufficient to establish a section 2 violation. Plaintiffs still can prove that the alleged discriminatory voting practice was enacted with a discriminatory intent. However, there no longer is a requirement that intent be shown.

The standard for determining whether a particular voting practice produces a discriminatory result is set out in the act. Specifically, section 2 states:

> A violation of. . .[section 2]. . .is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by [the Voting Rights Act] in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. . . .

The act clearly states that section 2 establishes no right to proportional representation. Thus, a person cannot allege that a particular voting practice violates section 2 simply because minorities have not been elected to office in proportion to their percentage in the population. However, the extent to which minority candidates have won elective positions can be one of several factors presented as evidence that, based on the totality of circumstances, the particular voting practice discriminates against minorities.

Evidence in a Section 2 Lawsuit

The type of evidence required to prove that a particular voting practice or procedure denies minorities the opportunity to participate in the political process and elect candidates of their choice depends upon the type of voting practice being challenged. For example, evidence necessary to prove that restrictive

registration hours produce a discriminatory result will not necessarily be the same type of evidence needed to prove that a redistricting plan discriminates against minorities. The Senate Judiciary Committee's report on the 1982 amendments to the Voting Rights Act does provide some guidance on the type of evidence that may be useful in proving that certain election systems, voting rules, and redistricting plans discriminate against minorities by diluting (i.e., minimizing or cancelling out) their voting strength.

The Senate Judiciary Committee report cited numerous factors upon which a determination that unlawful vote dilution could be made based on a review of decisions of the U.S. Supreme Court and of U.S. Courts of Appeals:

1. the extent of any history of official discrimination in the State or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process;
2. the extent to which voting in the elections of the State or political subdivision is racially polarized;
3. the extent to which the State or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group;
4. if there is a candidate slating process, whether the members of the minority group have been denied access to that process;
5. the extent to which members of the minority group in the State or political subdivision bear the effects of discrimination in such areas as education, employment, and health, which hinder their ability to participate effectively in the political process;
6. whether political campaigns have been characterized by overt or subtle racial appeals; and
7. the extent to which members of the minority group have been elected to public office in the jurisdiction.

The Committee report suggested that other factors that might be relevant include determining whether there has been a significant lack of responsiveness by elected officials to the needs of the affected minority group and whether the policy underlying the use of the challenged practice is tenuous (e.g., whether it is a departure from past practice or from the practice in other jurisdictions in the State).

Although the factors listed above can be evidence of vote dilution, there is no requirement that all of these factors be proved. A court will not issue a finding of vote dilution based on the number of factors proved or based on the number of factors not proved. Instead, it will look at all of the substantive evidence surrounding use of the challenged practice and make a decision based on the "totality of circumstances." Moreover, depending upon the facts of a particular case, other factors besides those listed above may be relevant.

Remedies

If a court finds that a jurisdiction has violated section 2, it will impose a remedy to fit the violation, such as an injunction to prohibit further use of the discriminatory practice. Two remedies available under section 3 of the act are judicial or administrative review of a jurisdiction's future changes in voting practices or procedures (a procedure known as preclearance) and the use of Federal personnel (called examiners and observers) to register voters and monitor elections. These remedies are almost identical to the special provisions of the Voting Rights Act and are discussed in the relevant chapters. (See chapter 3 for a discussion of preclearance and chapter 4 for a discussion of Federal examiners and observers.) Finally, the act permits the prevailing party to recover attorneys' fees.

Individuals who believe that voting discrimination exists in their jurisdiction should contact a local attorney for assistance. They also can contact the U.S. Assistant Attorney General for Civil Rights and request that a lawsuit be filed on their behalf. The address and telephone number of the Assistant Attorney General are listed in appendix G.

Voting Assistance

In 1982 Congress passed legislation to make it easier for blind and disabled voters or those unable to read or write to vote in an atmosphere free from fraud or intimidation. Its concern was that some voters in this category would be assisted by persons with whom they did not feel comfortable. In such situations the prospective voter might choose not to vote at all. Congress also was concerned that blind or disabled voters or those unable to read or write might be manipulated or coerced into voting for someone not of their choosing. Recognizing that exercising the right to vote should not be restricted due to an individual's physical incapacity or inability to read or write, Congress passed section 208 of the Voting Rights Act.

Section 208 is a nationwide provision requiring States to allow blind or disabled persons or those

unable to read or write to be assisted in voting by anyone of their choice, except their employer, or an agent of their employer, or an officer or agent of the voter's union. This law covers those unable to read or write due to illiteracy or due to their lack of fluency in the English language (e.g., members of minority language groups).

Some States already have laws requiring that assistance be given to blind or disabled voters or those unable to read or write. Some of these laws allow voting assistance by poll workers or a person's relative. The Federal law, however, states that assistance must be provided by *anyone* of the voter's choice. Thus, any State restriction on who is allowed to assist the voter is no longer valid.

In January 1984 the Department of Justice sent letters to all States informing them of the new provision for voting assistance, but some local election officials still may be unaware of it. Samples of those letters are included in appendix C. If you have any problems obtaining assistance, you should show local election officials a copy of the letter. You also can write or call either the Assistant Attorney General for Civil Rights or State election officials if problems arise. The address and telephone numbers are listed in appendix G.

Chapter 3

Preclearance

Section 5 of the Voting Rights Act

Section 5 is one of the special provisions of the Voting Rights Act. It was enacted to prevent States and political subdivisions with a history of voting discrimination from constantly devising new ways to discriminate once the old ways are abolished by legislation or court decree. Jurisdictions covered by this section must submit all changes in voting laws, practices, or procedures to the U.S. Attorney General or to the U.S. District Court for the District of Columbia and prove that the changes do not have the purpose and will not have the effect of discriminating against racial or language minorities covered by the act. Although jurisdictions have the option of submitting the proposed change to the U.S. Attorney General or to the U.S. District Court for the District of Columbia, most seek an administrative decision from the U.S. Attorney General. The 1982 amendments to the Voting Rights Act extended section 5 an additional 25 years.

If a jurisdiction seeks review of its voting change from the U.S. District Court for the District of Columbia, it is the plaintiff seeking a "declaratory judgment" that the change does not have a discriminatory purpose or effect. The Attorney General of the United States is the defendant. If the declaratory judgment is denied, the jurisdiction cannot implement the change. Alternatively, if a jurisdiction seeks review of its voting change from the U.S. Attorney General, as most do, the Attorney General reviews the change to determine whether the jurisdiction has proved that the change does not have a discriminatory purpose or effect. If the jurisdiction cannot show this, the Attorney General will "object" to the change and send the jurisdiction a "letter of objection." If he objects, the proposed change cannot be implemented. Obtaining a declaratory judgment that a proposed voting change does not discriminate in purpose or effect or failure of the Attorney General to object to the change is known as "preclearance." Once clearance has been obtained, the voting change can be implemented.

The U.S. Attorney General has delegated responsibility for enforcing the Voting Rights Act to the Assistant Attorney General for Civil Rights, who heads the Department of Justice's Civil Rights Division. When changes are submitted to the U.S. Assistant Attorney General, the Voting Section, which is within the Civil Rights Division, is responsible for initial review of the proposed voting change. The chief of the Voting Section has authority to preclear voting changes, but the U.S. Assistant Attorney General makes the final decision on objections and reconsideration of objections. Since most jurisdictions covered by section 5 preclear their voting changes with the U.S. Department of Justice, the remaining part of this chapter discusses the administrative preclearance process.

Covered Jurisdictions

Jurisdictions covered by section 5, commonly referred to as covered jurisdictions, and the date on which they were covered are listed in appendix B, table B–1. Any voting changes made after the date a jurisdiction was covered are subject to preclearance. (Table B–1 also lists the jurisdictions that are covered by section 5 *and* the minority language provisions of

section 4(f)4. See chapter 6 for a discussion of the minority language provisions.)

Some covered jurisdictions in appendix B are entire States; others are only political subdivisions within States. These jurisdictions are covered because they met one of the following criteria:

1. The jurisdiction maintained on November 1, 1964, a test or device as a condition for registering or voting, and less than 50 percent of its total voting age population were registered on November 1, 1964, or voted in the 1964 Presidential election.
2. The jurisdiction maintained on November 1, 1968, a test or device as a condition for registering or voting, and less than 50 percent of the total voting age population were registered on November 1, 1968, or voted in the 1968 Presidential election.
3. More than 5 percent of the citizens of voting age in the jurisdiction were members of a single language minority group on November 1, 1972, and the jurisdiction provided registration and election materials only in English on November 1, 1972 (that is, maintained a test or device as defined in the 1975 amendments), and less than 50 percent of its total voting age population were registered on November 1, 1972, or voted in the 1972 Presidential election.

These jurisdictions also are covered by the special provision authorizing the appointment of Federal examiners and observers (see chapter 4). Jurisdictions covered by the third criterion or trigger also must provide bilingual assistance in voting (see chapter 6).

The preclearance requirement also applies to political units within a jurisdiction that was made subject to the act by one of the triggers, and they also are referred to as covered jurisdictions. For example, the entire State of Alabama is one of the jurisdictions covered by the special provisions of the Voting Rights Act. This means that all political units within the State (e.g., counties, cities, and school districts) also must preclear their voting changes. Similarly, since Wilson County, North Carolina, was made subject to the act by one of the criteria, all political units within the county must preclear their voting changes. (The entire State of North Carolina is not covered by the special provisions.)

Voting Changes Subject to Preclearance

The types of voting changes that have to be submitted for preclearance include changes that appear to be minor as well as changes that appear to expand minority voting rights. By requiring jurisdictions to submit all changes in voting laws, practices, and procedures, the Department of Justice can prevent implementation of changes that may have the purpose or effect of discriminating against minorities.

The following list, included in the Department of Justice's guidelines for enforcing section 5, provides examples of changes that have to be submitted (see appendix G.2, Procedures for the Administration of Section 5 of the Voting Rights Act, as amended):

- Any change in qualifications or eligibility for voting.
- Any change concerning registration, balloting, and the counting of votes and any change concerning publicity for or assistance in registration or voting.
- Any change with respect to the use of a language other than English in any aspect of the electoral process.
- Any change in the boundaries of voting precincts or in the location of polling places.
- Any change in the constituency of an official or the boundaries of a voting unit (e.g., through redistricting, annexation, deannexation, incorporation, reapportionment, changing to at-large elections from district elections, or changing to district elections from at-large elections).
- Any change in the method of determining the outcome of an election (e.g., by requiring a majority vote for election or the use of a designated post or place system).
- Any change affecting the eligibility of persons to become or remain candidates, to obtain a position on the ballot in primary or general elections, or become or remain holders of elective offices.
- Any change in the eligibility and qualification procedures for independent candidates.
- Any change in the term of an elective office or an elected official or in the offices that are elective (e.g., by shortening the term of an office, changing from election to appointment, or staggering the terms of offices).
- Any change affecting the necessity of or methods for offering issues and propositions for approval by referendum.
- Any change affecting the right or ability of persons to participate in political campaigns that is effected by a jurisdiction subject to the requirements of section 5.

Department of Justice Preclearance Procedures

The procedures for preclearing a proposed voting change are quite simple. The jurisdiction seeking to enact a new voting practice or procedure submits the proposed change to the U.S. Assistant Attorney General for Civil Rights, with supplemental information necessary for making a final determination about whether to preclear the change. The presentation of written materials submitted for preclearance is called a "submission." The jurisdiction is required to specify in writing the reasons for the change and the anticipated effect of the change on the minority community. The submitting jurisdiction has the burden of proving that the proposed change does not discriminate against minorities in purpose or effect.

After a covered jurisdiction has submitted its proposed change, the Assistant Attorney General for Civil Rights has 60 days, beginning the day after receipt of the submission, in which to object to or preclear the change. If the Assistant Attorney General has to request additional information from the jurisdiction, the 60-day period begins the day after receipt of the additional information. If there is no objection within the 60-day period either because the Assistant Attorney General fails to respond in writing or because he mails the jurisdiction a letter stating that no objection will be entered, the change is considered precleared. If the proposed voting change is objected to within the 60-day period, the Assistant Attorney General will send the submitting jurisdiction a "letter of objection" explaining the basis for the objection. A covered jurisdiction that does not submit a proposed voting change for preclearance is in violation of the law. It also violates the law when it implements a change to which the Assistant Attorney General has objected.

When the Assistant Attorney General does object to a proposed change, the submitting jurisdiction has three options:

1. It can submit a request for reconsideration of the objection based on additional information;
2. It can modify the original submission to eliminate those portions of the change the Department considered objectionable and make a submission of the modified change; or
3. It can file a suit in the U.S. District Court for the District of Columbia seeking a declaratory judgment that the change does not discriminate against minorities in purpose or effect.

If the submitting jurisdiction does not prevail in any of these options, the change cannot be implemented.

Citizen Participation

Any individual or group may comment on a covered jurisdiction's proposed voting change, and the Assistant Attorney General is required to consider these comments in reviewing the change. Comments may be given at any time, but the Assistant Attorney General encourages comment as early as possible. If comments are in writing, the following information should be given:

1. The name, address, and telephone number of the individual or group submitting comments;
2. A description of the change affecting voting; and
3. Evidence of the impact of the change on the minority community.

The letter should be sent to the following address:

Assistant Attorney General for Civil Rights
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

The envelope and first page should be marked: Comment under section 5 of the Voting Rights Act.

If an individual or group needs to telephone the Department of Justice's Voting Section with regard to the section 5 submission process, the telephone number is (202) 724–6245 The Department will honor a request for confidentiality, regardless of whether communications are in writing or by telephone.

To learn of proposed voting changes, an individual or group should request (in writing or by telephone) to be placed on the Department of Justice's Registry of Interested Individuals and Groups. Persons on this registry receive the weekly notice of all section 5 submissions, a list of objections entered during the previous week, a list of jurisdictions that sought preclearance through the U.S. District Court for the District of Columbia, and any requests for reconsideration of an objection. (See appendix D for a sample list of section 5 submissions.) Once individuals learn of a proposed voting change from the weekly submission list, they can obtain a copy of the change either from the Voting Section or from State or local officials in the affected jurisdiction.

The final decision on a submission will be based on requirements of the act, court decisions, and departmental policy; but evidence to support the decision will be based on information received from the submitting jurisdiction, from interested parties, and

from the Department of Justice's own investigations. Detailed comments are always useful in reviewing proposed voting changes. For example, if the Voting Section is reviewing a covered jurisdiction's proposed redistricting plan that the affected minority community believes discriminates in purpose or effect, it is useful for interested individuals to provide maps, statistics, and any other relevant documentation to support their position. If all relevant information is not available, however, individuals still should write or call the Assistant Attorney General and provide whatever information they have. That information may be the basis for further investigation by the Department of Justice. The sample letters of objection listed in appendix E show the importance of community participation in determining whether to object to or preclear a submission. Sample comments by a civil rights organization on a proposed voting change and the letter of objection to the change are listed in appendix F. Individuals or groups who commented on a proposed change will receive notice of the final decision on the submission.

In addition to commenting on a submission, interested individuals or groups can become involved at other stages. If groups or individuals are on the Registry of Interested Individuals and Groups, they also receive notice of a jurisdiction's request for reconsideration of an objection and can submit comments at that time. If the submitting jurisdiction requests a conference on its request for reconsideration of an objection, parties who commented on the proposed change or other interested parties shall be notified by the Attorney General and given the opportunity to confer about the change as well.

It is important to note that an individual or organization can sue in the local Federal district court if a covered jurisdiction has implemented a voting change without submitting it for preclearance. If the court finds that the change should have been submitted for preclearance, the jurisdiction must submit it to the Department of Justice. Similarly, an individual or organization can file suit in the local Federal court to prevent implementation of a voting change to which the Department of Justice has objected. Individuals or organizations also can notify the Department of Justice if either of the above events occurs. Finally, if the jurisdiction decides to seek preclearance of its change with the U.S. District Court for the District of Columbia, minority citizens in the affected jurisdiction can become part of the suit through an attorney and present evidence of the impact of the change on the minority community.

Even if the Attorney General preclears a proposed voting change, individuals or groups who still believe that a change is discriminatory can sue the jurisdiction in local Federal courts under section 2 of the Voting Rights Act, the nationwide provision prohibiting discrimination in voting. Since voting practices enacted prior to the date a jurisdiction was covered by section 5 do not have to be precleared, section 2 is also available if individuals or groups believe that any of those voting practices are discriminatory. (See chapter 2 for a discussion of section 2 of the Voting Rights Act.)

Chapter 4

Federal Examiners and Observers

The provisions for Federal examiners and observers are special provisions of the Voting Rights Act. They were enacted to help ensure that jurisdictions with a history of voting discrimination would not deny minorities their right to register and to vote. Jurisdictions covered by these provisions are listed in appendix B table B–1. In 1982 they were extended an additional 25 years.

Federal Examiners

Section 6 of the Voting Rights Act authorizes the Attorney General to have the U.S. Office of Personnel Management appoint Federal examiners to list citizens eligible for registration in any jurisdiction covered by the special provisions. To authorize the use of Federal examiners, the Attorney General must:

1. have received 20 meritorious written complaints from residents of the locality charging discriminatory denial of the right to vote, or
2. believe that the appointment of examiners is necessary to enforce voting rights protected by the 14th and 15th amendments.

After the Attorney General has made such a finding, the Office of Personnel Management sets the times, places, and procedures for the examiners to interview and list for registration persons who satisfy the State qualifications that do not violate Federal law. Usually the examiners open an office in a local Federal building. There should be local publicity about their presence and their office hours.

Federal examiners do not replace local registration officials, but they do provide an alternate means of registration. The examiners give qualified voters a certificate stating that they are eligible to vote in any election and give the local election officials a list of the voters to be included in the official registration list. Voters certified by examiners must be permitted to vote by local officials.

The Voting Rights Act permits challenges to qualifications of a person listed by the examiners, but such a voter must be considered eligible or allowed to vote until a U.S. Office of Personnel Management hearing officer or a U.S. court of appeals upholds the challenge. Only if the challenge is upheld may the name of a voter certified by the examiners be removed from the list and the person be denied a ballot.

Federal examiners are also available during elections to protect the voting rights of persons who are properly registered or listed. If such persons are not permitted to vote, they may complain to the examiner within 48 hours of the closing of the polls. An examiner who believes that a complaint has merit must immediately inform the U.S. Attorney General, who may then seek a Federal court order allowing the person to vote and suspending the election results until that vote has been counted. A person who believes that local officials are registering voters in a discriminatory fashion should immediately notify the U.S. Assistant Attorney General for Civil Rights.

Federal Observers

The Attorney General may also request the U.S. Office of Personnel Management to appoint observers for counties or other local jurisdictions that have been designated for examiners. Federal observers act as poll watchers at local polling places. Their job is to see if

all eligible voters are allowed to vote and if all ballots are accurately counted. The persons who act as Federal observers are usually employees of the Office of Personnel Management or another Federal agency.

The Federal observers do not run the election: even where observers are serving, local officials still manage the polls. The observers simply watch what happens at their assigned polling places and report what they have seen to the Department of Justice. Usually a Department attorney is present in a locality where observers are serving. The observers' reports may be used in court if the Justice Department decides to challenge the conduct of the election.

The Department of Justice has not issued formal regulations regarding the appointment of voting observers. The Department has informally indicated in correspondence with the Commission that a decision to appoint observers is based upon the following general procedure.

First, the Department surveys covered counties having a significant minority population (e.g., 20 percent or more) to determine if there are minority candidates running for office in the area. This survey is conducted by telephone. To determine if problems exist, a second telephone survey is conducted of minority contacts in counties in which there are minority candidates and where the Department has information that an election otherwise may be of particular concern with regard to rights protected by the Voting Rights Act.

In counties where it has then been determined that there is "a substantial prospect of election day problems," a Department of Justice attorney will be sent to the area to conduct comprehensive interviews with local officials, minority contacts, and political candidates. According to the Department of Justice, these problems might include a substantial underrepresentation of minority groups among election officials or poll workers, hostility being shown to minority voters by polling officials, and the moving of polling places. Based upon data obtained by the attorney, a decision is made about the likelihood of racially based problems occurring. If the determination is made that problems may occur, the Department of Justice will send observers for the areas and polling places in question.

Any individual who believes that violations of the Voting Rights Act are occurring in connection with any general, special, or primary election is encouraged to contact the Assistant Attorney General for Civil Rights promptly.

Chapter 5

Bailout

Bailout is the procedure by which a jurisdiction seeks to end its coverage under the special provisions of the Voting Rights Act. If a jurisdiction succeeds in bailing out, it is no longer covered by the section 5 preclearance provision, and the Attorney General can no longer authorize the presence of Federal examiners and observers. Jurisdictions covered by the bailout provisions are listed in appendix B, table B–1.

Under the bailout provisions, a covered jurisdiction must file suit in the U.S. District Court for the District of Columbia and prove that, for the preceding 10 years, it has complied with the Voting Rights Act, including its special provisions; that it has taken constructive efforts to give minorities equal access to the political process; and that minority political participation has increased. The Attorney General of the United States is the defendant, seeking to show why the jurisdiction should or should not bail out.

Eligible Jurisdictions

Two types of jurisdictions can seek to bail out: covered States and covered counties (or parishes). Normally, covered towns and cities cannot bail out separately from the county. When the bailout action is filed, however, a covered county files the bailout action on behalf of itself and all governmental units (e.g., towns, cities, and school districts) within its territory. The only exceptions to this are when there is no county governing unit in the covered State (e.g., independent cities in Virginia) or when the town or city itself is covered by one of the trigger formulas (i.e., each of the covered towns or cities listed in table B–1). In these cases, the town or city can file the bailout action.

Bailout Criteria

The jurisdiction seeking to bail out has the burden of proof in a bailout suit. It must present evidence showing that preclearance of its proposed voting changes and the presence of Federal examiners and observers are no longer necessary to ensure that minority voting rights are protected from unlawful discrimination. Specifically, the jurisdiction must show that "during the ten years preceding the filing of the bailout suit and while the suit is pending":

1. It has not used a test or device as a precondition to registering or voting that has a discriminatory purpose or effect;
2. There has been no final judgment of voting discrimination in the jurisdiction by any court in the United States. A consent decree is considered a final judgment if it resulted in abandonment of the allegedly discriminatory practice (e.g., a consent decree in which a covered jurisdiction agreed to abandon an alleged discriminatory at-large election system for single-member districts);
3. There has been full compliance with section 5 of the act, including timely preclearance of voting changes before they are implemented and no implementation of any change to which an objection has been entered or a declaratory judgment was denied;
4. The Attorney General has not issued an objection to a proposed voting change and no declaratory judgment has been denied under section 5 by the U. S. District Court for the District of Columbia; and

5. No Federal examiners have been assigned.

A covered jurisdiction must meet three other standards. First, it must show that it has not engaged in other discriminatory voting practices prohibited by the law, such as those prohibited by section 2 of the Voting Rights Act, or the 15th amendment, unless it can be shown that such practices were "trivial, were promptly corrected, and were not repeated." This includes evidence presented during the bailout suit that a voting practice, such as restrictive registration hours, violates section 2 of the act. Second, the jurisdiction seeking to bail out also must show that it has taken constructive steps to increase minority access to the political process. These would include, for example, removing barriers to registration and voting, eliminating intimidation and harassment of minority voters, increasing registration opportunities for minorities (e.g., expanding registration hours), removing voting practices that inhibit or dilute access to the political process, and appointing minorities to key positions in the electoral process (e.g., appointing minorities as registrars, deputy registrars, and poll workers).

Finally, the jurisdiction must show that there has been an increase in minority political participation. This includes, for example, evidence of increased voting and registration rates for minorities over time and evidence of a decrease in disparities in registration and voting rates between minorities and nonminorities. No particular level of minority participation is *required* under the act, but evidence of increased registration and voting rates may be necessary to show improvement in minority political participation.

A jurisdiction seeking to bail out must meet the bailout criteria for itself and must show that each governmental unit within its territory also meets the criteria. For example, a county seeking to bail out must prove that all of the towns, cities, and school districts within its jurisdiction also have met the bailout criteria. Similarly, a State seeking to bail out must show that each governmental unit within its territory (e.g., counties, towns, cities, and school districts) has met the bailout criteria.

Citizen Participation

To help ensure that citizens are aware that a jurisdiction is seeking to bail out, the law requires the jurisdiction to publicize its intent to bail out and any proposed bailout settlement in the local media and in appropriate United States post offices. The Department of Justice also places the names of jurisdictions seeking to bail out on its weekly submission list.

Although the U.S. Attorney General is the defendant in a bailout suit, minority citizens in the affected jurisdiction still have a right to participate at any stage of the bailout proceeding through an attorney and show why the jurisdiction should or should not bail out. Those who may not want to participate can still provide the Attorney General with useful information to determine whether a jurisdiction should be permitted to bail out. For example, they may know of voting changes that were not submitted for preclearance or of voting practices that are used that limit minority access to the political process. Such information is critical in determining whether a jurisdiction can bail out. Individuals who have information they believe will be useful should contact the U.S. Assistant Attorney General for Civil Rights. The telephone number and mailing address are given in appendix G.

Even if a jurisdiction succeeds in bailing out, the court retains jurisdiction over the bailout action for 10 years after judgment. If voting rights violations occur within that 10-year period, the Attorney General or an aggrieved citizen can petition the court to place the jurisdiction under the special provisions again. It is important that individuals notify the U.S. Assistant Attorney General if there is evidence of voting rights violations after the jurisdiction has bailed out.

Chapter 6

Minority Language Provisions

Jurisdictions covered by the minority language provisions of the Voting Rights Act must provide any "registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots. . .in the language of the applicable minority group as well as the English language." If the language is oral only, such as some American Indian or Alaska Native languages, then only oral assistance must be provided. This bilingual assistance must be provided for all types of elections: Federal, State, and local elections and primary, general, and special elections. The minority language groups covered by this provision are American Indian, Asian American, Alaska Native, and persons of Spanish heritage.

Determination of Coverage

The Voting Rights Act has two minority language provisions: section 4(f)(4) and section 203(c). The requirements for bilingual assistance are the same under each provision. The differences relate to how jurisdictions are covered and how they remove themselves from coverage, the method of enforcement, the length of time bilingual assistance must be provided, and compliance with other provisions of the Voting Rights Act. Under the first formula, which is in section 4(b) of the act, a jurisdiction is covered if:

(1) over 5 percent of the voting-age citizens were, on November 1, 1972, members of a single language minority group, (2) registration and election materials were provided only in English on November 1, 1972, and (3) fewer than 50 percent of the voting-age citizens were registered to vote or voted in the 1972 Presidential election.

States and political subdivisions covered by this formula and the applicable language groups to which the minority language provisions apply are listed in appendix B, table B–1. These jurisdictions also are subject to the other special provisions of the Voting Rights Act. This means that they must preclear all of their voting changes with the U.S. Department of Justice or the U.S. District Court for the District of Columbia, including their changes providing for bilingual assistance (see chapter 3) and that the Department of Justice has the authority to send Federal examiners and observers there to register voters and observe elections (see chapter 4). The U.S. Assistant Attorney General for Civil Rights enforces the minority language provisions in these jurisdictions. If these jurisdictions want to remove themselves from coverage under the minority language provisions, they must meet the bailout standards discussed in chapter 5. In 1982 Congress extended this bilingual provision an additional 25 years.

The second formula, section 203(b) of the Voting Rights Act, was amended in 1982. Before 1982 bilingual assistance had to be provided in States or political subdivisions in which: (1) more than 5 percent of the voting age citizens were members of a single language minority, and (2) the illiteracy rate of that language minority in the State or political subdivision was higher than the national illiteracy rate. In 1982 Congress amended the first criterion under section 203 to make it applicable only to determinations made by the Director of the Census that members of a single language minority constituting 5 percent of the voting age citizens "do not

speak or understand English adequately enough to participate in the electoral process. . . ." The Bureau of the Census issued new determinations on June 25, 1984. States or political subdivisions covered by the Bureau's new determinations and the language groups to which the minority language provisions apply are listed in appendix B, table B–2.

If jurisdictions covered by section 203(b) want to remove themselves from coverage under the minority language provisions, they simply have to prove in a local Federal court that the illiteracy rate for the applicable language minority group is equal to or less than the national rate. A lawsuit of this kind also is known as "bailout." The U.S. attorney with jurisdiction in the State covered by the minority language provisions is responsible for enforcing section 203.

In 1982 Congress extended section 203 through August 6, 1992, an additional 7 years (before 1982 the minority language provisions were scheduled to expire in 1985). It is important to remember that the requirements for bilingual assistance are the same regardless of which coverage formula applies.

Responsibility of Local Jurisdictions

Local jurisdictions have primary responsibility for determining what type of bilingual assistance is required to comply with the minority language provisions, but assistance must be given at every stage of the electoral process—from registration to voting. Since the type of bilingual assistance required will depend upon the needs of the particular language minority, Department of Justice guidelines implementing the minority language provisions do not specify what constitutes effective minority language assistance (see appendix G.) They simply state that the assistance must enable members of applicable language minority groups to be "effectively informed of and participate effectively in voting-connected activities" and that jurisdictions should take reasonable steps to achieve this goal. Decisions local election officials have to make that are critical in determining effective bilingual assistance include what language, form of a language, or dialect is appropriate; when and what type of oral or written assistance is needed; and whether translated written materials are accurate.

The guidelines interpreting the minority language provisions, court decisions, and other publications do provide some guidance on ways in which local jurisdictions can provide effective bilingual assistance. A summary of the various ways in which local election officials can implement an effective bilingual assistance program follows.

Methods for Providing Effective Bilingual Assistance

General Methods

- Advertise the availability of bilingual assistance for registration and voting in the general media, in media used by the affected language minority (e.g., minority language newspapers and radio and TV stations), and by meeting with community groups.
- Seek assistance from the minority language community on ways to provide effective bilingual assistance, especially from minority language community organizations active in registration and voting drives.
- Train all permanent and temporary election staff on the requirements of the minority language provisions.

Methods for Registration

- Have bilingual registrars at the central registration location.
- Establish satellite registration offices with bilingual registrars in areas accessible to the minority language community. Keep registration offices open during evening hours or on weekends.
- Display a sign at the central registration office and at sites in the minority language community advertising the availability of bilingual assistance.
- Use bilingual public service announcements to encourage voter registration.

Methods for Voting

- Have bilingual poll workers at the polling location.
- Have bilingual voting materials readily accessible and in a conspicuous place.
- Display a sign at the polling location advertising the availability of bilingual assistance.

Citizen Participation

Citizens play an important role in helping to ensure compliance with the minority language provisions. What local jurisdictions have to do depends in large part upon the needs of the minority language community, and local community groups that engage in voter registration drives often are in the best position to determine these needs. For example, if a jurisdiction decides to provide bilingual assistance only in areas

where it is needed most, a permissible practice known as targeting, local community groups are in the best position to know how to target that assistance. Similarly, where a language is historically unwritten, such as some American Indian languages, participation by local community groups is often the only way election officials can provide effective oral bilingual assistance.

Local community groups also should be aware that the guidelines interpreting the minority language provisions anticipate involvement by minority language groups in implementing the provisions. They state that a jurisdiction is more likely to be in compliance when it has worked with community groups. Local community organizations or individuals, therefore, should offer local election officials assistance in implementing the minority language provisions. They should notify local election officials especially when they observe problems in bilingual assistance.

Enforcement

As noted earlier, enforcement of the minority language provisions in jurisdictions covered by section 4(b) rests with the U.S. Department of Justice's Civil Rights Division. Individuals who believe that a jurisdiction is not complying with these provisions should contact the U.S. Assistant Attorney General for Civil Rights. (The telephone number and address are listed in appendix G.) Enforcement of the minority language provisions in section 203 jurisdictions rests with the U.S. Attorney in those jurisdictions. Individuals who believe that a jurisdiction is not complying with the requirements of section 203 should contact their local U.S. Attorney.

Conclusion

The Voting Rights Act of 1965, as amended, contains strong and effective prohibitions against and remedies for voting discrimination. The general provisions and the special provisions represent this Nation's commitment to full voting rights for all Americans. Unfortunately, many citizens continue to be denied the right to vote on the basis of race, color, or national origin. This pamphlet provides information necessary to achieve that right. Through knowledge of the Voting Rights Act and active participation in helping to ensure that it is enforced, the goal of full political participation by all Americans ultimately should be met.

Appendix A

The Voting Rights Act of 1965 as Amended

VOTING RIGHTS ACT OF 1965
(as amended through 1982)

AN ACT To enforce the fifteenth amendment to the Constitution of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

TITLE I VOTING RIGHTS

SEC. 2. (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results 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 contravention of the guarantees set forth in section 4(f)(2), as provided in subsection (b).

(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided,* That nothing in this section

establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

SEC. 3. (a) Whenever the Attorney General or an aggrieved person institutes a proceeding under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the Director of the Office of Personnel Management in accordance with section 6 to serve for such period of time for such political subdivisions as the court shall determine is appropriate to enforce the voting guarantees of the fourteenth or fifteenth amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such voting guarantees or (2) as part of any final judgment if the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred in such State or subdivision: *Provided*, That the court need not authorize the appointment of examiners if any incidents of 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) (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) If in a proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

(c) If in any proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different

from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2): *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

[*Note: The following provision, section 4(a), is in effect only until August 5, 1984:*]

SEC. 4. (a) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the first two sentences of subsection (b) or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the nineteen years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color: *Provided*, That no such declaratory judgment shall issue with respect to any plaintiff for a period of nineteen years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the territory of such plaintiff. No citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the third sentence of subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United

effective until August 5, 1984

States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2): *Provided*, That no such declaratory judgment shall issue with respect to any plaintiff for a period of ten years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this paragraph, determining that denials or abridgements of the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) through the use of tests or devices have occurred anywhere in the territory of such plaintiff.

An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2).

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the nineteen years preceding the filing of an action under the first sentence of this subsection for the purpose or with the effect of denying or abridging the right to vote on account of race or color, he shall consent to the entry of such judgment.

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the ten years preceding the filing of an action under the second sentence of this subsection for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) he shall consent to the entry of such judgment.

effective until August 5, 1984

[*Note: The following provision, section 4(a), is effective on and after August 5, 1984:*]

SEC. 4. (a)(1) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or

device in any State with respect to which the determinations have been made under the first two sentences of subsection (b) or in any political subdivision of such State (as such subdivision existed on the date such determinations were 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 such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia issues a declaratory judgment under this section. No citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the third sentence of subsection (b) of this section or in any political subdivision of such State (as such subdivision existed on the date such determinations were 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 such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia issues a declaratory judgment under this section. A declaratory judgment under this section shall issue only if such court determines that during the ten years preceding the filing of the action, and during the pendency of such action—

(A) no such test or device has been used within such State or political subdivision for the purpose or with the effect of denying or abridging the right to vote on account of race or color or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) in contravention of the guarantees of subsection (f)(2);

(B) no final judgment of any court of the United States, other than the denial of declaratory judgment under this section, has determined that denials or abridgements of the right to vote on account of race or color have occurred anywhere in the territory of such State or political subdivision or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) that denials or abridgements of the right to vote in contravention of the guarantees of subsection (f)(2) have occurred anywhere in the territory of such State or subdivision and no consent decree, settlement, or agreement has been entered into resulting in any abandonment of a voting practice challenged on such grounds; and no declaratory judgment under this section shall be entered during the pendency of an action commenced before the filing of an action under this section and alleging such denials or abridgements of the right to vote;

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(C) no Federal examiners under this Act have been assigned to such State or political subdivision;

(D) such State or political subdivision and all governmental units within its territory have complied with section 5 of this Act, including compliance with the requirement that no change covered by section 5 has been enforced without preclearance under section 5, and have repealed all changes covered by section 5 to which the Attorney General has successfully objected or as to which the United States District Court for the District of Columbia has denied a declaratory judgment;

(E) the Attorney General has not interposed any objection (that has not been overturned by a final judgment of a court) and no declaratory judgment has been denied under section 5, with respect to any submission by or on behalf of the plaintiff or any governmental unit within its territory under section 5, and no such submissions or declaratory judgment actions are pending; and

(F) such State or political subdivision and all governmental units within its territory—

(i) have eliminated voting procedures and methods of election which inhibit or dilute equal access to the electoral process;

(ii) have engaged in constructive efforts to eliminate intimidation and harassment of persons exercising rights protected under this Act; and

(iii) have engaged in other constructive efforts, such as expanded opportunity for convenient registration and voting for every person of voting age and the appointment of minority persons as election officials throughout the jurisdiction and at all stages of the election and registration process.

(2) To assist the court in determining whether to issue a declaratory judgment under this subsection, the plaintiff shall present evidence of minority participation, including evidence of the levels of minority group registration and voting, changes in such levels over time, and disparities between minority-group and non-minority-group participation.

(3) No declaratory judgment shall issue under this subsection with respect to such State or political subdivision if such plaintiff and governmental units within its territory have, during the period beginning ten years before the date the judgment is issued, engaged in violations of any provision of the Constitution or laws of the United States or any State or political subdivision with respect to

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discrimination in voting on account of race or color or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) in contravention of the guarantees of subsection (f)(2) unless the plaintiff establishes that any such violations were trivial, were promptly corrected, and were not repeated.

(4) The State or political subdivision bringing such action shall publicize the intended commencement and any proposed settlement of such action in the media serving such State or political subdivision and in appropriate United States post offices. Any aggrieved party may as of right intervene at any stage in such action.

(5) An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for ten years after judgment and shall reopen the action upon motion of the Attorney General or any aggrieved person alleging that conduct has occurred which, had that conduct occurred during the ten-year periods referred to in this subsection, would have precluded the issuance of a declaratory judgment under this subsection. The court, upon such reopening, shall vacate the declaratory judgment issued under this section if, after the issuance of such declaratory judgment, a final judgment against the State or subdivision with respect to which such declaratory judgment was issued, or against any governmental unit within that State or subdivision, determines that denials or abridgements of the right to vote on account of race or color have occurred anywhere in the territory of such State or political subdivision or (in the case of a State or subdivision which sought a declaratory judgment under the second sentence of this subsection) that denials or abridgements of the right to vote in contravention of the guarantees of subsection (f)(2) have occurred anywhere in the territory of such State or subdivision, or if, after the issuance of such declaratory judgment, a consent decree, settlement, or agreement has been entered into resulting in any abandonment of a voting practice challenged on such grounds.

(6) If, after two years from the date of the filing of a declaratory judgment under this subsection, no date has been set for a hearing in such action, and that delay has not been the result of an avoidable delay on the part of counsel for any party, the chief judge of the United States District Court for the District of Columbia may request the Judicial Council for the Circuit of the District of Columbia to provide the necessary judicial resources to expedite

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any action filed under this section. If such resources are unavailable within the circuit, the chief judge shall file a certificate of necessity in accordance with section 292(d) of title 28 of the United States Code.

(7) The Congress shall reconsider the provisions of this section at the end of the fifteen-year period following the effective date of the amendments made by the Voting Rights Act Amendments of 1982.

(8) The provisions of this section shall expire at the end of the twenty-five-year period following the effective date of the amendments made by the Voting Rights Act Amendments of 1982.

(9) Nothing in this section shall prohibit the Attorney General from consenting to an entry of judgment if based upon a showing of objective and compelling evidence by the plaintiff, and upon investigation, he is satisfied that the State or political subdivision has complied with the requirements of section 4(a)(1). Any aggrieved party may as of right intervene at any stage in such action.

(b) The provisions of subsection (a) shall apply in any State or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964. On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous sentence, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968. On and after August 6, 1975, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous two sentences, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1972, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the citizens of voting age were registered on November 1,

1972, or that less than 50 per centum of such persons voted in the presidential election of November 1972.

A determination or certification of the Attorney General or of the Director of the Census under this section or under section 6 or section 13 shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

(c) The phrase "test or device" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

(d) For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(e)(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, of the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English.

(f)(1) The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English. In addition they have been denied equal educational opportunities by State and local governments, resulting in severe disabilities and continuing illiteracy in the English language. The Congress further finds that, where State and local officials conduct elections only in English, language minority citizens are excluded from participating in the electoral process. In many areas of the country, this exclusion is aggravated by acts of physical, economic, and political intimidation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting English-only elections, and by prescribing other remedial devices.

(2) No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group.

(3) In addition to the meaning given the term under section 4(c), the term "test or device" shall also mean any practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five per centum of the citizens of voting age residing in such State or political subdivision are members of a single language minority. With respect to section 4(b), the term "test or device", as defined in this subsection, shall be employed only in making the determinations under the third sentence of that subsection.

(4) Whenever any State or political subdivision subject to the prohibitions of the second sentence of section 4(a) provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language: *Provided,* That where the language of the applicable minority group is oral or unwritten or in the case of Alaskan Natives and American Indians, if the predominant language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

SEC. 5. Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the first sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the second sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the third sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1972, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided,* That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, or upon good cause shown, to facilitate an expedited approval within sixty days after such submission the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of

a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court.

SEC. 6. Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 3(a), or (b) unless a declaratory judgment has been rendered under section 4(a), the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b) that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fourteenth or fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fourteenth or fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fourteenth or fifteenth amendment, the Director of the Office of Personnel Management shall appoint as many examiners for such subdivision as he may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 9(a), and other persons deemed necessary by the Director of the Office of Personnel Management to carry out the provisions and purposes of this Act shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Director of the Office of Personnel Management, and 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 9 of the Act of August 2, 1939, as amended (5 U.S.C. 7324), prohibiting partisan political activity: *Provided*, That the Director of the Office of Personnel Management is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these

positions. Examiners and hearing officers shall have the power to administer oaths.

SEC. 7. (a) The examiners for each political subdivision shall, at such places as the Director of the Office of Personnel Management shall by regulation designate, examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote.

(b) Any person whom the examiner finds, in accordance with instructions received under section 9(b), to have the qualifications prescribed by State law not inconsistent with the Constitution and laws of the United States shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 9(a) and shall not be the basis for a prosecution under section 12 of this Act. The examiner shall certify and transmit such list, and any supplements as appropriate, at least once a month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State, and any such lists and supplements thereto transmitted during the month shall be available for public inspection on the last business day of the month and in any event not later than the forty-fifth day prior to any election. The appropriate State or local election official shall place such names on the official voting list. Any person whose name appears on the examiner's list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided,* That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person whose name appears on such a list a certificate evidencing his eligibility to vote.

(d) A person whose name appears on such a list shall be removed therefrom by an examiner if (1) such person has been successfully challenged in accordance with the procedure prescribed in section 9, or (2) has been determined by an examiner to have lost his eligibility to vote under State law not inconsistent with the Constitution and the laws of the United States.

SEC. 8. Whenever an examiner is serving under this Act in any political subdivision, the Director of the Office of Personnel Management may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States,

(1) to 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) to 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. Such persons so assigned shall report to an examiner appointed for such political subdivision, to the Attorney General, and if the appointment of examiners has been authorized pursuant to section 3(a), to the court.

SEC. 9. (a) Any challenge to a listing on an eligibility list prepared by an examiner shall be heard and determined by a hearing officer appointed by and responsible to the Director of the Office of Personnel Management and under such rules as the Director of the Office of Personnel Management shall by regulation prescribe. Such challenge shall be entertained only if filed at such office within the State as the Director of the Office of Personnel Management shall by regulation designate, and within ten days after the listing of the challenged person is made available for public inspection, and if supported by (1) the affidavits of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and (2) a certification that a copy of the challenge and affidavits have been served by mail or in person upon the person challenged at his place of residence set out in the application. Such challenge shall be determined within fifteen days after it has been filed. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the person petitioning for review but no decision of a hearing officer shall be reversed unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) The times, places, procedures, and form for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Director of the Office of Personnel Management and the Director of the Office of Personnel Management shall, after consultation with the Attorney General, instruct examiners concerning applicable State law not inconsistent with the Constitution and laws of the United States with respect to (1) the qualifications required for listing, and (2) loss of eligibility to vote.

(c) Upon the request of the applicant or the challenger or on its own motion the Director of the Office of Personnel Management shall have the power to require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter pending before it under the authority of this section. In case of contumacy or refusal to obey a subpoena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Director of the Office of Personnel Management or a hearing officer, there to produce pertinent, relevant, and nonprivileged documentary evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

SEC. 10. (a) The Congress finds that the requirement of the payment of a poll tax as a precondition to voting (i) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons as a precondition to their exercise of the franchise, (ii) does not bear a reasonable relationship to any legitimate State interest in the conduct of elections, and (iii) in some areas has the purpose or effect of denying persons the right to vote because of race or color. Upon the basis of these findings, Congress declares that the constitutional right of citizens to vote is denied or abridged in some areas by the requirement of the payment of a poll tax as a precondition to voting.

(b) In the exercise of the powers of Congress under section 5 of the fourteenth amendment, section 2 of the fifteenth amendment and section 2 of the twenty-fourth amendment, the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions, including actions against States or political subdivisions, for declaratory judgment or injunctive relief against the enforcement of any requirement of the payment of a poll tax as a precondition to voting, or substitute therefor enacted after November 1, 1964, as will be necessary to implement the declaration of subsection (a) and the purposes of this section.

(c) The district courts of the United States shall have jurisdiction of such actions which shall be heard and determined by a court of three judges in accordance with the provisions of section

2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

SEC. 11. (a) No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of this Act or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person's vote.

(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 3(a), 6, 8, 9, 10, or 12(e).

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both: *Provided, however,* That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(d) Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(e)(1) Whoever votes more than once in an election referred to in paragraph (2) shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(2) The prohibition of this subsection applies with respect to any general, special, or primary election held solely or in part for

the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(3) As used in this subsection, the term "votes more than once" does not include the casting of an additional ballot if all prior ballots of that voter were invalidated, nor does it include the voting in two jurisdictions under section 202 of this Act, to the extent two ballots are not cast for an election to the same candidacy or office.

SEC. 12. (a) Whoever shall deprive or attempt to deprive any person of any right secured by section 2, 3, 4, 5, 7, or 10 or shall violate section 11(a), shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot which has been cast in such election, or (2) alters any official record of voting in such election tabulated from a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, 4, 5, 7, 10, or 11(a) shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(d) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2, 3, 4, 5, 7, 10, 11, or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under this Act to vote and (2) to count such votes.

(e) Whenever in any political subdivision in which there are examiners appointed pursuant to this Act any persons allege to such an examiner within forty-eight hours after the closing of the polls that notwithstanding (1) their listing under this Act or registration by an appropriate election official and (2) their eligibility to vote, they have not been permitted to vote in such election, the examiner shall forthwith notify the Attorney General if such allegations in

his opinion appear to be well founded. Upon receipt of such notification the Attorney General may forthwith file with the district court an application for an order providing for the marking, casting, and counting of the ballots of such persons and requiring the inclusion of their votes in the total vote before the results of such election shall be deemed final and any force or effect given thereto. The district court shall hear and determine such matters immediately after the filing of such application. The remedy provided in this subsection shall not preclude any remedy available under State or Federal law.

(f) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether a person asserting rights under the provisions of this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 13. Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 6 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 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, (1) that all persons listed by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) 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 (b), with respect to examiners appointed pursuant to section 3(a), upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable.

SEC. 14. (a) All cases of criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) No court other than the District Court for the District of Columbia or a court of appeals in any proceeding under section 9 shall have jurisdiction to issue any declaratory judgment pursuant to section 4 or section 5 or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto.

(c)(1) The terms "vote" or "voting" shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this Act, or other action required by law prerequisite to voting, casting a ballot, and having such a ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.

(2) The term "political subdivision" shall mean any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting.

(3) The term "language minorities" or "language minority group" means persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage.

(d) In any action for a declaratory judgment brought pursuant to section 4 or section 5 or this Act, subpoenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States: *Provided,* That no writ of subpoena shall issue for witnesses without the District of Columbia at a greater distance than one hundred miles from the place of holding court without the permission of the District Court for the District of Columbia being first had upon proper application and cause shown.

(e) In any action or proceeding to enforce the voting guarantees of the fourteenth or fifteenth amendment, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

SEC. 15. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), and as further amended by section 101 of the Civil Rights Act of 1964 (78 Stat. 241), is further amended as follows:

(a) Delete the word "Federal" wherever it appears in subsections (a) and (c);

(b) Repeal subsection (f) and designate the present subsections (g) and (h) as (f) and (g), respectively.

SEC. 16. The Attorney General and the Secretary of Defense, jointly, shall make a full and complete study to determine whether, under the laws or practices of any State or States, there are preconditions to voting, which might tend to result in discrimination against citizens serving in the Armed Forces of the United States seeking to vote. Such officials shall, jointly, make a report to the Congress not later than June 30, 1966, containing the results of such study, together with a list of any States in which such preconditions exist, and shall include in such report such recommendations for legislation as they deem advisable to prevent discrimination in voting against citizens serving in the Armed Forces of the United States.

SEC. 17. Nothing in this Act shall be construed to deny, impair, or otherwise adversely affect the right to vote of any person registered to vote under the law of any State or political subdivision.

SEC. 18. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 19. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

TITLE II—SUPPLEMENTAL PROVISIONS

APPLICATION OF PROHIBITION TO OTHER STATES

SEC. 201. (a) No citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State.

(b) As used in this section, the term "test or device" means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

RESIDENCE REQUIREMENTS FOR VOTING

SEC. 202. (a) The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

(b) Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

(c) No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the

requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

(d) For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President or for President and Vice President in such election; and each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

(e) If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision after the thirtieth day next preceding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

(f) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any requirement of registration that does not include a provision for absentee registration.

(g) Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

(h) The term "State" as used in this section includes each of the several States and the District of Columbia.

(i) The provisions of section 11(c) shall apply to false registration, and other fraudulent acts and conspiracies, committed under this section.

BILINGUAL ELECTION REQUIREMENTS

SEC. 203. (a) The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them, resulting in high illiteracy and low voting participation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices.

(b) Prior to August 6, 1992, no State or political subdivision shall provide registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language if the Director of the Census determines (i) that more than 5 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and (ii) that the illiteracy rate of such persons as a group is higher than the national illiteracy rate: *Provided,* That the prohibitions of this subsection shall not apply in any political subdivision which has less than five percent voting age citizens of each language minority which comprises over five percent of the statewide population of voting age citizens. For purposes of this subsection, illiteracy means the failure to complete the fifth primary grade. The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.

[*Note: Section 4 of the Voting Rights Act Amendments of 1982 states: "Section 203(b) of the Voting Rights Act of 1965 is amended by striking out 'August 6, 1985' and inserting in lieu thereof 'August 6, 1992', and the extension made by this section shall apply only to determinations made by the Director of the Census under clause (i) of section 203(b) for members of a single language minority who do not speak or understand English adequately enough to participate in the electoral process when such a determination can be made by the Director of the Census based on the 1980 and subsequent census data."*]

(c) Whenever any State or political subdivision subject to the prohibition of subsection (b) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language: *Provided,* That where the language of the applicable minority group is oral or unwritten or in the case of Alaskan natives and American Indians, if the predominant language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

(d) Any State or political subdivision subject to the prohibition of subsection (b) of this section, which seeks to provide English-only registration or voting materials or information, including ballots, may file an action against the United States in the United States District Court for a declaratory judgment permitting such provision. The court shall grant the requested relief if it determines that the illiteracy rate of the applicable language minority group within the State or political subdivision is equal to or less than the national illiteracy rate.

(e) For purposes of this section, the term "language minorities" or "language minority group" means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.

JUDICIAL RELIEF

SEC. 204. Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 201, or (b) undertakes to deny the right to vote in any election in violation of section 202, or 203, he may institute for the United States, or in the name of the United States, an action in a district court of the United States,

in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall be to the Supreme Court.

PENALTY

SEC. 205. Whoever shall deprive or attempt to deprive any person of any right secured by section 201, 202, or 203 of this title shall be fined not more than $5,000 or imprisoned not more than five years, or both.

SEPARABILITY

SEC. 206. If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

SEC. 207. (a) Congress hereby directs the Director of the Census forthwith to conduct a survey to compile registration and voting statistics: (i) in every State or political subdivision with respect to which the prohibitions of section 4(a) of the Voting Rights Act of 1965 are in effect, for every statewide general election for Members of the United States House of Representatives after January 1, 1974; and (ii) in every State or political subdivision for any election designated by the United States Commission on Civil Rights. Such surveys shall only include a count of citizens of voting age, race or color, and national origin, and a determination of the extent to which such persons are registered to vote and have voted in the elections surveyed.

(b) In any survey under subsection (a) of this section no person shall be compelled to disclose his race, color, national origin, political party affiliation, or how he voted (or the reasons therefor), nor shall any penalty be imposed for his failure or refusal to make such disclosures. Every person interrogated orally, by written survey or questionnaire, or by any other means with respect to such information shall be fully advised of his right to fail or refuse to furnish such information.

(c) The Director of the Census shall, at the earliest practicable time, report to the Congress the results of every survey conducted pursuant to the provisions of subsection (a) of this section.

(d) The provisions of section 9 and chapter 7 of title 13 of the United States Code shall apply to any survey, collection, or compilation of registration and voting statistics carried out under subsection (a) of this section.

VOTING ASSISTANCE

SEC. 208. Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union.

TITLE III—EIGHTEEN-YEAR-OLD VOTING AGE

ENFORCEMENT OF TWENTY-SIXTH AMENDMENT

SEC. 301. (a)(1) The Attorney General is directed to institute, in the name of the United States, such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the twenty-sixth article of amendment to the Constitution of the United States.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted under this title, which shall be heard and determined by a court of three judges in accordance with section 2284 of title 28 of the United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

(b) Whoever shall deny or attempt to deny any person of any right secured by the twenty-sixth article of amendment to the Constitution of the United States shall be fined not more than $5,000 or imprisoned not more than five years, or both.

DEFINITION

SEC. 302. As used in this title, the term "State" includes the District of Columbia.

[*Note: As enacted, the Voting Rights Act, in Sections 3, 6, 7, 8, 9, and 13, contains references to the United States Civil Service Commission. Because the functions of the Civil Service Commission have been transferred to the Director of the Office of Personnel Management, references in the Act to the Commission have been changed to references to the Director.*]

Appendix B

Jurisdictions Covered by the Special Provisions of the Voting Rights Act of 1965 as Amended

TABLE B-1

Jurisdictions Subject to Section 5 Preclearance and to the Minority Language Provisions of Section 4(f)4 of the Voting Rights Act

Jurisdictions listed under the category *Preclearance* must submit changes in electoral laws and practices for Federal clearance and may be designated for Federal examiners and observers. Jurisdictions with a language minority designation also must provide bilingual assistance in voting to the affected language minority group. (For convenience all Spanish heritage groups are listed as "Spanish.")

Preclearance	**Language Minority Group**
Alabama (statewide) (Nov. 1, 1964)	
Alaska (statewide) (Nov. 1, 1972)	Alaska Native (statewide)
Arizona (statewide) (Nov. 1, 1972)	Spanish (statewide)
(The following Arizona counties were covered individually through the use of earlier dates.)	
Apache County (Nov. 1, 1968)	American Indian
Cochise County (Nov. 1, 1968)	
Coconino County (Nov. 1, 1968)	American Indian
Mohave County (Nov. 1, 1968)	
Navajo County (Nov. 1, 1968)	American Indian
Pima County (Nov. 1, 1968)	
Pinal County (Nov. 1, 1968)	American Indian
Santa Cruz County (Nov. 1, 1968)	
Yuma County (Nov. 1, 1964)	
California (the following counties only)	
Kings County (Nov. 1, 1972)	Spanish
Merced County (Nov. 1, 1972)	Spanish
Monterey County (Nov. 1, 1968)	
Yuba County (Nov. 1, 1968)	Spanish
Florida (the following counties only)	
Collier County (Nov. 1, 1972)	Spanish
Hardee County (Nov. 1, 1972)	Spanish
Hendry County (Nov. 1, 1972)	Spanish
Hillsborough County (Nov. 1, 1972)	Spanish
Monroe County (Nov. 1, 1972)	Spanish

TABLE B-1

Jurisdictions Subject to Section 5 Preclearance and to the Minority Language Provisions of Section 4(f)4 of the Voting Rights Act (continued)

Preclearance	Language Minority Group
Georgia (statewide) (Nov. 1, 1964)	
Louisiana (statewide) (Nov. 1, 1964)	
Michigan (the following townships only)	
Buena Vista Township (Saginaw County) (Nov. 1, 1972)	Spanish
Clyde Township (Allegan County) (Nov. 1, 1972)	Spanish
Mississippi (statewide) (Nov. 1, 1964)	
New Hampshire (the following political subdivisions only)	
Antrim Town (Nov. 1, 1968)	
Benton Town (Nov. 1, 1968)	
Boscawen Town (Nov. 1, 1968)	
Millsfield Township (Nov. 1, 1968)	
Newington Town (Nov. 1, 1968)	
Pinkhams Grant (Nov. 1, 1968)	
Rindge Town (Nov. 1, 1968)	
Stewartstown (Nov. 1, 1968)	
Stratford Town (Nov. 1, 1968)	
Unity Town (Nov. 1, 1968)	
New York (the following counties only)	
Bronx County (Nov. 1, 1968)	Spanish
Kings County (Nov. 1, 1968)	Spanish
New York County (Nov. 1, 1968)	

TABLE B-1

Jurisdictions Subject to Section 5 Preclearance and to the Minority Language Provisions of Section 4(f)4 of the Voting Rights Act (continued)

Preclearance	Language Minority Group
North Carolina (the following counties only)	
Anson County (Nov. 1, 1964)	
Beaufort County (Nov. 1, 1964)	
Bertie County (Nov. 1, 1964)	
Bladen County (Nov. 1, 1964)	
Camden County (Nov. 1, 1964)	
Caswell County (Nov. 1, 1964)	
Chowan County (Nov. 1, 1964)	
Cleveland County (Nov. 1, 1964)	
Craven County (Nov. 1, 1964)	
Cumberland County (Nov. 1, 1964)	
Edgecombe County (Nov. 1, 1964)	
Franklin County (Nov. 1, 1964)	
Gaston County (Nov. 1, 1964)	
Gates County (Nov. 1, 1964)	
Granville County (Nov. 1, 1964)	
Greene County (Nov. 1, 1964)	
Guilford County (Nov. 1, 1964)	
Halifax County (Nov. 1, 1964)	
Harnett County (Nov. 1, 1964)	
Hertford County (Nov. 1, 1964)	
Hoke County (Nov. 1, 1964)	
Jackson County (Nov. 1, 1972)	American Indian
Lee County (Nov. 1, 1964)	
Lenoir County (Nov. 1, 1964)	
Martin County (Nov. 1, 1964)	
Nash County (Nov. 1, 1964)	
Northampton County (Nov. 1, 1964)	
Onslow County (Nov. 1, 1964)	
Pasquotank County (Nov. 1, 1964)	
Perquimans County (Nov. 1, 1964)	
Person County (Nov. 1, 1964)	
Pitt County (Nov. 1, 1964)	
Robeson County (Nov. 1, 1964)	
Rockingham County (Nov. 1, 1964)	
Scotland County (Nov. 1, 1964)	
Union County (Nov. 1, 1964)	
Vance County (Nov. 1, 1964)	
Washington County (Nov. 1, 1964)	
Wayne County (Nov. 1, 1964)	
Wilson County (Nov. 1, 1964)	

TABLE B-1

Jurisdictions Subject to Section 5 Preclearance and to the Minority Language Provisions of Section 4(f)4 of the Voting Rights Act (continued)

Preclearance	Language Minority Group
South Carolina (statewide) (Nov. 1, 1964)	
South Dakota (the following counties only)	
Shannon County (Nov. 1, 1972)	American Indian
Todd County (Nov. 1, 1972)	American Indian
Texas (statewide) (Nov. 1, 1972)	Spanish (statewide)
Virginia (statewide) (Nov. 1, 1964)	

TABLE B-2

Jurisdictions Covered Only by the Minority Language Provisions of Section 203 of the Voting Rights Act

State/County	Language Minority
ALASKA	
Bethel Census Area	Eskimo
Dillingham Census Area	Eskimo
Kobuk Census Area	Eskimo
Nome Census Area	Eskimo
North Slope Borough	Eskimo
Wade Hampton Census Area	Eskimo
Yukon-Koyukuk Census Area	Am. Indian (Athapascan)
ARIZONA	
Apache	Am. Indian (Navajo)
Cochise	Spanish
Conconino	Am. Indian (Navajo)
Graham	Spanish
Greenlee	Spanish
Navajo	Am. Indian (Navajo)
Pinal	Spanish
Santa	Spanish
Yuma	Spanish
CALIFORNIA	
Fresno	Spanish
Imperial	Spanish
Kern	Spanish
Kings	Spanish
Madera	Spanish
San Benito	Spanish
Tulare	Spanish
COLORADO	
Alamosa	Spanish
Archuleta	Spanish
Bent	Spanish
Conejos	Spanish
Costilla	Spanish
Huerfana	Spanish
Las Animas	Spanish
Otero	Spanish
Pueblo	Spanish
Rio Grande	Spanish
Saguache	Spanish
CONNECTICUT (towns)	
Bridgeport (Fairfield County)	Spanish
Hartford (Hartford County)	Spanish
FLORIDA	
Dade	Spanish
Hardee	Spanish
HAWAII	
Hawaii	Japanese
Kauai	Japanese
Maui	Japanese
IDAHO	
Minidoka	Spanish
MASSACHUSETTS	
Lawrence City (Essex County)	Spanish
Holyoke City (Hampden County)	Spanish
Chelsea City (Suffolk County)	Spanish
MICHIGAN	
Clyde Township (Allegan County)	Spanish
Fennville City (Allegan County)	Spanish
Grant Township (Newaygo County)	Spanish
MONTANA	
Rosebud	Am. Indian (Cheyenne)

TABLE B-2

Jurisdictions Covered Only by the Minority Language Provisions of Section 203 of the Voting Rights Act (continued)

State/County	Language Minority
NEW JERSEY	
Hudson	Spanish
Passaic	Spanish
NEW MEXICO	
Bernalillo	Spanish
Chaves	Spanish
Cibala	Am. Indian (Keres)
Colfax	Spanish
De Baca	Spanish
Dona Ana	Spanish
Eddy	Spanish
Grant	Spanish
Guadalupe	Spanish
Harding	Spanish
Hidalgo	Spanish
Lincoln	Spanish
Luna	Spanish
McKinley	Am. Indian (Navajo)
Mora	Spanish
Quay	Spanish
Rio Arriba	American Indian
Roosevelt	Spanish
Sandoval	Am. Indian (Keres)
Sandoval	Spanish
San Juan	Am. Indian (Navajo)
San Miguel	Spanish
Santa Fe	Spanish
Socorro	Am. Indian (Navajo)
Socorro	Spanish
Taos	Spanish
Torrance	Spanish
Valencia	Spanish
NEW YORK	
Bronx	Spanish
Kings	Spanish
New York	Spanish
NORTH DAKOTA	
Rolette	Am. Indian (Cree)
Sioux	Am. Indian (Dakota)
OKLAHOMA	
Adair	Am. Indian (Cherokee)
SOUTH DAKOTA	
Buffalo	Am. Indian (Dakota)
Dewey	Am. Indian (Dakota)
Shannon	Am. Indian (Dakota)
Todd	Am. Indian (Dakota)
TEXAS	
Andrews	Spanish
Aransas	Spanish
Atascosa	Spanish
Bailey	Spanish
Bee	Spanish
Bexar	Spanish
Brewster	Spanish
Briscoe	Spanish
Brooks	Spanish
Caldwell	Spanish
Calhoun	Spanish
Cameron	Spanish
Castro	Spanish
Cochran	Spanish
Comal	Spanish
Concho	Spanish
Cottle	Spanish
Crane	Spanish
Crockett	Spanish
Crosby	Spanish
Culberson	Spanish
Dawson	Spanish
Deaf Smith	Spanish
De Witt	Spanish
Dickens	Spanish
Dimmit	Spanish
Duval	Spanish
Ector	Spanish

TABLE B-2

Jurisdictions Covered Only by the Minority Language Provisions of Section 203 of the Voting Rights Act (continued)

State/County	Language Minority
Edwards	Spanish
El Paso	Spanish
Fisher	Spanish
Floyd	Spanish
Fort Bend	Spanish
Frio	Spanish
Gaines	Spanish
Garza	Spanish
Goliad	Spanish
Gonzales	Spanish
Guadalupe	Spanish
Hale	Spanish
Hall	Spanish
Haskell	Spanish
Hays	Spanish
Hidalgo	Spanish
Hockley	Spanish
Howard	Spanish
Hudspeth	Spanish
Irion	Spanish
Jackson	Spanish
Jeff Davis	Spanish
Jim Hogg	Spanish
Jim Wells	Spanish
Jones	Spanish
Karnes	Spanish
Kenedy	Spanish
Kinney	Spanish
Kleberg	Spanish
Knox	Spanish
Lamb	Spanish
La Salle	Spanish
Live Oak	Spanish
Loving	Spanish
Lubbock	Spanish
Lynn	Spanish
McCulloch	Spanish
McMullen	Spanish
Martin	Spanish
Mason	Spanish
Matagorda	Spanish
Maverick	Spanish
Medina	Spanish
Menard	Spanish
Mitchell	Spanish
Nolan	Spanish
Nueces	Spanish
Parmer	Spanish
Pecos	Spanish
Presidio	Spanish
Reagan	Spanish
Real	Spanish
Reeves	Spanish
Refugio	Spanish
Runnels	Spanish
San Patricio	Spanish
Schleicher	Spanish
Scurry	Spanish
Starr	Spanish
Sterling	Spanish
Sutton	Spanish
Swisher	Spanish
Terrell	Spanish
Terry	Spanish
Tom Green	Spanish
Upton	Spanish
Uvalde	Spanish
Val Verde	Spanish
Victoria	Spanish
Ward	Spanish
Webb	Spanish
Wharton	Spanish
Willacy	Spanish
Wilson	Spanish
Winkler	Spanish
Yoakum	Spanish
Zapata	Spanish
Zavala	Spanish
UTAH	
San Juan	Am. Indian (Navajo)
WISCONSIN	
Couderay (Town) (Sawyer County)	Am. Indian (Winnebago)
Komensky (Town) (Jackson County)	Am. Indian (Ojibwa)
Pine Grove (Town) (Portage County)	Spanish

Appendix C

Letters from the Department of Justice to State Officials on the New Assistance Statute

U.S. Department of Justice

Washington, D.C. 20530

20 JAN 1984

Honorable Bill Clinton
Governor of Arkansas
State Capitol
Little Rock, Arkansas 72201

Dear Governor Clinton:

On June 29, 1982, President Reagan signed into law the 1982 Amendments to the Voting Rights Act, Public Law 97-205. One of the changes made by these amendments was the addition of a new provision, Section 208, which allows voters who are illiterate, blind or disabled to receive assistance in registering to vote and in voting from virtually any person whom the voter chooses.

In its entirety this part of the 1982 Amendments to the Voting Rights Act reads as follows:

> Sec. 5. Effective January 1, 1984, title II of the Voting Rights Act of 1965 is amended by adding at the end the following section:
>
> "VOTING ASSISTANCE
>
> "Sec. 208. Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union.".

Accordingly, this provision for allowing assistance to voters became effective nationwide, in all elections, on January 1, 1984.

We are aware that in many states no change in law or procedure has been necessary to accommodate this new federal requirement. In other states, however, legislative or administrative changes have been necessary, or will be necessary, to comply with Section 208.

To assist us in discharging our responsibilities under the Voting Rights Act, we would appreciate it if you would inform us of the steps you have taken--or will take--to comply with Section 208. In this connection, it would be most helpful if you also would advise us of any instructions regarding implementation which have been or will be distributed to election officials to ensure that voters who need assistance will be able to receive assistance from persons of their choice. If you have any questions about this matter, please feel free to write or call the undersigned (202-724-5767).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By: Gerald W. Jones
Gerald W. Jones
Chief, Voting Section

Note: This letter was sent to the Governor, Attorney General and Secretary of State (or other appropriate official) in the following states: Arkansas, Delaware, Washington, D.C., Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin and Wyoming.

U.S. Department of Justice

Washington, D.C. 20530

24 JAN 1984

Honorable George Deukmejian
Governor of California
State Capitol
Sacramento, California 95814

Dear Governor Deukmejian:

On June 29, 1982, President Reagan signed into law the 1982 Amendments to the Voting Rights Act, Public Law 97-205. One of the changes made by these amendments was the addition of a new provision, Section 208, which allows voters who are illiterate, blind or disabled to receive assistance in registering to vote and in voting from virtually any person whom the voter chooses.

In its entirety this part of the 1982 Amendments to the Voting Rights Act reads as follows:

> Sec. 5. Effective January 1, 1984, title II of the Voting Rights Act of 1965 is amended by adding at the end the following section:
>
> "VOTING ASSISTANCE
>
> "Sec. 208. Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union.".

Accordingly, this provision for allowing assistance to voters became effective nationwide, in all elections, on January 1, 1984.

We are aware that in many states no change in law or procedure has been necessary to accommodate this new federal requirement. In other states, however, legislative or administrative changes have been necessary, or will be necessary, to comply with Section 208.

As you are undoubtedly aware, certain political subdivisions of your state are subject to the preclearance provision of Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, as a result of coverage under Section 4 of the Act, 42 U.S.C. 1973b. As a consequence, any change made to comply with Section 208--insofar as it is to be implemented within such covered political subdivisions--must either be brought before the United States District Court for the District of Columbia for judicial review or be submitted to the Attorney General for a determination that the change does not have the purpose and will not have the effect of discriminating on account of race, color, or membership in a language minority group. See the enclosed Procedures for the Administration of Section 5, 28 C.F.R. Part 51.

To assist us in discharging our responsibilities under the Voting Rights Act, we would appreciate it if you would inform us of the steps you have taken--or will take--to comply with Section 208. In this connection, it would be most helpful if you also would advise us of any instructions regarding implementation which have been or will be distributed to election officials to ensure that voters who need assistance will be able to receive assistance from persons of their choice. If you have any questions about this matter, please feel free to write or call the undersigned (202-724-5767).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By: Gerald W. Jones
Chief, Voting Section

Note: This letter was sent to the Governor, Attorney General and Secretary of State (or other appropriate official) in the following states: California, Colorado, Connecticut, Florida, Hawaii, Idaho Michigan, New Hampshire, New York, North Carolina and South Dakota.

U.S. Department of Justice

Washington, D.C. 20530

25 JAN 1984

Honorable George C. Wallace
Governor
State of Alabama
State Capitol
Montgomery, Alabama 36104

Dear Governor Wallace:

On June 29, 1982, President Reagan signed into law the 1982 Amendments to the Voting Rights Act, Public Law 97-205. One of the changes made by these amendments was the addition of a new provision, Section 208, which allows voters who are illiterate, blind or disabled to receive assistance in registering to vote and in voting from virtually any person whom the voter chooses.

In its entirety this part of the 1982 Amendments to the Voting Rights Act reads as follows:

> Sec. 5. Effective January 1, 1984, title II of the Voting Rights Act of 1965 is amended by adding at the end the following section:
>
> "VOTING ASSISTANCE
>
> "Sec. 208. Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union.".

Accordingly, this provision for allowing assistance to voters became effective nationwide, in all elections, on January 1, 1984.

We are aware that in many states no change in law or procedure has been necessary to accommodate this new federal requirement. In other states, however, legislative or administrative changes have been necessary, or will be necessary, to comply with Section 208.

As you are undoubtedly aware, your state is subject to the preclearance provision of Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, as a result of coverage under Section 4 of the Act, 42 U.S.C. 1973b. As a consequence, any change made to comply with Section 208 must either be brought before the United States District Court for the District of Columbia for judicial review or be submitted to the Attorney General for a determination that the change does not have the purpose and will not have the effect of discriminating on account of race, color, or membership in a language minority group. See the enclosed Procedures for the Administration of Section 5, 28 C.F.R. Part 51.

To assist us in discharging our responsibilities under the Voting Rights Act, we would appreciate it if you would inform us of the steps you have taken--or will take--to comply with Section 208. In this connection, it would be most helpful if you also would advise us of any instructions regarding implementation which have been or will be distributed to election officials to ensure that voters who need assistance will be able to receive assistance from persons of their choice. If you have any questions about this matter, please feel free to write or call the undersigned (202-724-5767).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By: Gerald W. Jones
Gerald W. Jones
Chief, Voting Section

Note: This letter was sent to the Governor, Attorney General and Secretary (or other appropriate official) in the following states: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and Virginia.

Appendix D

Sample List of Submissions Under Section 5 of the Voting Rights Act

U.S. Department of Justice

DJ 166-012-3

Washington, D.C. 20530

June 30, 1983

N O T I C E

The following submissions to the Attorney General pursuant to Section 5 of the Voting Rights Act were received through June 27, 1983. The Attorney General has sixty days from the date of receipt to respond to each submission. In order to assure that comments and information from interested parties may be considered in reaching our determination, such comments and information should be received by this Department no later than thirty days from the date of this notice.

6/13 Anderson County, South Carolina
Act No. R118 (1983)--allows an appointed successor to a vacancy on the boards to serve only until the next general election

6/17 Tate County, Mississippi
Redistrictings (supervisor and justice court districts); realignment of voting precincts; polling places
Additional Information Received

6/20 Selma (Dallas County), Alabama
Ordinance No. 83-05--redistricting
Additional Information Received

State of Georgia
Act No. 429, H.B. No. 121 (1983)--provides for a magistrate court in each county and for the jurisdiction, powers, officers, proceedings, and operation of such courts
Additional Information Received (incomplete)
Expedited Consideration Requested

Early County, Georgia
Act No. 376, H.B. No. 821 (1983)--reapportionment (commissioners); method of election

Winn Parish, Louisiana
Realignment of voting precincts
Expedited Consideration Requested

Jackson (Hinds County), Mississippi
Two polling places
Expedited Consideration Requested

6/20 Dallas County Water Control and Improvement District No. 6 (Dallas County), Texas
Annexation

Corpus Christi Junior College District (Nueces County), Texas
Sixteen voting precincts; polling places; absentee voting location

6/21 Rabun County, Georgia
Polling place

Bolivar County, Mississippi
Redistricting (supervisor districts)
Reconsideration of June 13, 1983, objection

Warren County, Mississippi
Redistricting (supervisor districts); realignment of voting precincts; polling places

Anderson County, South Carolina
Act No. R118 (1983)--allows an appointed successor to a vacancy on the boards to serve only until the next general election
Additional Information Received

6/22 Reform (Pickens County), Alabama
Act No. 393 (1973)--annexation
Additional Information Received

Gwinnett County, Georgia
Additional registration location; additional hours

Alcorn County, Mississippi
Redistricting

Mecklenburg County, Virginia
Consolidation of two voting precincts

6/27 State of Georgia
Act No. 429, H.B. No. 121 (1983)--provides for a magistrate court in each county and for the jurisdiction, powers, officers, proceedings, and operation of such courts
Additional Information Received
Expedited Consideration Requested

More information was requested with respect to the following submissions on the dates indicated:

6/22 State of South Dakota
S.D.C.L. 13-8-8--election of school board members changed from ward to at-large

6/27 Anniston (Calhoun County), Alabama
Redistricting (councilmanic districts)

East Baton Rouge Parish, Louisiana
Reapportionment

6/28 State of Virginia
Chapter 470, S.B. No. 309 (1983)--assistance to general registrars, unpaid assistants, and voter registration drives

Lovettsville (Loudoun County), Virginia
Chapter 520, S.B. 34 (1983)--town charter; Chapter 53, H.B. No. 34 (1968)--charter

Middleburg (Loudoun County), Virginia
Chapter 423, S.B. No. 33 (1983)--new town charter; Chapter 93, S.B. No. 44 (1978)--increase in length of terms; staggered terms

An objection was interposed with respect to the following submission on the date indicated:

6/29 Winston County, Mississippi
Redistrictings (supervisor and justice court districts)

NOTE: All inquiries regarding submissions should be directed to the Associate Director of the Section 5 Unit, Margay M. Williams (202-724-6245). Comments should be addressed to: Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D.C. 20530. The envelope and first page should be marked: Comment under Section 5, Voting Rights Act.

Gerald W. Jones
Chief, Voting Section

DOJ-1980-07

Appendix E

Sample of Letters of Objection Issued by the Department of Justice

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

JUN 5 1981

Frank E. McCreary, Esq.
Vinson & Elkins
First City National Bank Building
Houston, Texas 77002

Dear Mr. McCreary:

This is in reference to the reduction in polling places, from thirteen to one, for the Burleson County Hospital District in Burleson County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on April 7, 1981.

In our consideration of your submission, we have considered carefully the information furnished by you, along with information and comments provided by other interested parties. Our review and analysis of this matter reveals the following facts: The Burleson County Hospital District has boundaries coterminous with Burleson County which has a population of 12,313, of whom twenty-two percent are black and ten percent are Mexican American. The number of polling places in the District was reduced from thirteen throughout the county to a single location in the City of Caldwell. One effect of this reduction in the number of polling places was a drop in voter participation from approximately 2,300 voters participating in the 1977 election to approximately 300 voters participating in 1979 and 1980 elections.

The bulk of the black population is concentrated in an area known as Clay Station, which is over thirty miles from the District's single polling place in the City of Caldwell. A large percentage of the county's Mexican-American population is found within the City of Somerville which is about nineteen miles from the City of Caldwell. Both of these areas had polling places that were eliminated by the change to a single polling location.

We understand that for the April 4, 1981, election, minorities from the Clay Station and Somerville areas were able to meet the burden placed on them by the use of a single polling place in Caldwell only through a concerted effort with other county voters with similar interests whereby they themselves successfully provided publicity for the election and transportation to the single poll. However, this additional burden imposed upon the minority voters to obtain access to the single poll was caused by the elimination of polling places in areas which are centers of minority population. Thus, the removal of polling places in the minority areas had a disparate impact on minority voters.

Under Section 5, the Burleson County Hospital District has the burden of proving that the reduction in the number of polling places from thirteen to one does not represent a retrogression in the position of minority voters in the district (see Beer v. United States, 425 U.S. 130 (1976)), and that the submitted change has no discriminatory purpose or effect. See, e.g., Georgia v. United States, 411 U.S. 526 (1973); see also Section 51.39(e) of the Procedures for the Administration of Section 5 (46 Fed. Reg. 878). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Thus, on behalf of the Attorney General I must interpose an objection to the continued use of a single polling place in future elections held by the Burleson County Hospital District.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (Section 51.44, 46 Fed. Reg. 878) permit you to request the Attorney General to reconsider the objection and in that connection we have noted your request for a conference "in the event clearance is not anticipated". Because insufficient time remains to grant such a conference during the 60-day period allowed by statute to object we are sending this notification without affording such a conference. However, we would be pleased to hold a conference under the reconsideration procedures referred to above, if you desire and request it. In

any event, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the use of a single polling place for elections held by the Burleson County Hospital District legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter the course of action the Burleson County Hospital District plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-7439), Director of Section 5 Unit of the Voting Section.

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division

SEP 1 1 1980

Mr. Harry E. Schmid
Elections Supervisor
DeKalb County Courthouse, Room 101-A
Decatur, Georgia 30030

Dear Mr. Schmid:

This is in reference to the disallowance of neighborhood voter registration drives in DeKalb County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on July 14, 1980.

We have reviewed carefully the information submitted by you as well as statistical data, information, comments and views presented by other interested persons. Our analysis revealed that although blacks constitute 32 percent of the voting age population, they comprise only 13 percent of DeKalb County's registered voters. Of the black voting age population, 24 percent are registered to vote, while 81 percent of the white voting age population is registered. Thus, there is significant underregistration among potential black voters. It is also our understanding that, as the additional registration system is presently constituted, prospective voters may take advantage of deputy registrars who go into local communities to register people to vote, and that many people, particularly blacks, have taken advantage of this opportunity. Disallowing neighborhood voter registration drives indicates that no such opportunity would be available under the proposed change.

We have also reviewed carefully your proffered justification of disallowing neighborhood voter registration drives; namely the possible illegality of registration drives. Such a concern is not supported by the Attorney General of the State of Georgia in his letter to us of July 1, 1980 (copy enclosed). That letter explained that the Georgia Code, Section 64-610(a), provides that any fixed location in the county may be used by the board of registrars to receive applications for registration and to register electors, and that Georgia Code Section 64-610(b) permits the board of registrars to open voter registration offices at any time, under fixed hours of operation, in order to suit the convenience of the

public, including neighborhood registration drives of the type heretofore conducted in DeKalb County by various community organizations. Therefore, I believe the DeKalb Board of Registrations and Elections' expressed concern that neighborhood voter registration drives may be illegal is without foundation.

Under all the circumstances, I am unable to conclude, as I must under the Voting Rights Act of 1965, that disallowing neighborhood voter registration drives does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color. I must, therefore, on behalf of the Attorney General, interpose an objection to disallowing neighborhood voter registration drives in DeKalb County, Georgia.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.21(b) and (c), 51.23, and 51.24) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the objection by the Attorney General is to make disallowing neighborhood voter registration drives legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter what course of action the DeKalb County Board of Registrations and Elections plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Ms. Hallue Wright (202-724-7170), of our staff, who has been assigned to handle this submission.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

C. Havird Jones, Jr., Esq.
Assistant Attorney General
P.O. Box 11549
Columbia, South Carolina 29211

30 AUG 1982

Dear Mr. Jones:

This is in reference to the redistricting of county council and school board districts in Williamsburg County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was completed on June 29, 1982.

As you know, under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See e.g., Georgia v. United States, 411 U.S. 526 (1973); see also, Procedures for the Administration of Section 5, 28 C.F.R. 51.39(e). In order to prove the absence of a racially discriminatory effect, Williamsburg County must demonstrate, at a minimum, that the proposed county redistricting plan will not lead to "a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (1976). While the county is under no obligation to maximize minority voting strength, the county must demonstrate that the plan "fairly reflects the strength of [minority] voting power as it exists." Mississippi v. United States, 490 F. Supp. 569, 581 (D. D.C. 1979), citing Beer v. United States, supra, 425 U.S. at 139 n. 11 and 141; and City of Richmond v. United States, 422 U.S. 358, 362 (1975).

We have analyzed carefully the submitted plan and have, as the law requires, viewed the districts "from the perspective of the most current available population data," City of Rome v. United States, 446 U.S. 156, 186 (1980)(i.e., the 1980 Census data). That analysis has revealed a noticeable dilution or fragmentation of the minority vote in Williamsburg County. For example, under the existing

plan four of the seven districts have black majorities substantial enough to enable the black community to elect councilmembers of its choice to the county's governing body. Under the proposed plan, the black electorate likely will have a realistic opportunity for such success in only three of the seven districts, even though they represent over 62 percent of the county's population. In addition, we have noted the strangely irregular-shaped districts that have been employed in accomplishing this result.

Under these circumstances, and in light of the existing patterns of racial bloc voting that exist, we are unable to conclude, as we must, that the County has met its burden of proving that the plan meets the requirements of the Act and is free of a racially discriminatory purpose or effect. Accordingly, I must on behalf of the Attorney General, interpose an objection to the redistricting plan for county council and school board districts, pursuant to Section 5 of the Voting Rights Act of 1965.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.44) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the redistricting of county council and school board districts legally unenforceable. See also 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Williamsburg County plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Sandra S. Coleman (202-724-6718), Deputy Director of the Section 5 Unit of the Voting Section.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

cc: William E. Jenkinson, Esq.
County Attorney

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

June 6, 1983

Mr. Thomas P. Lewis
Amite County Chancery Clerk
P. O. Drawer J
Liberty, Mississippi 39645

Dear Mr. Lewis:

This is in reference to the redistricting of supervisor and justice court districts; the realignment of voting precincts; the administrative reregistration of voters; and the polling place change in Amite County, Mississippi, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the information to complete your submission on April 5, 1983.

We have made a careful analysis of the information you have provided along with Bureau of the Census data. We also have received and carefully considered a significant number of comments submitted by citizens of Amite County.

Under Section 5, the submitting authority has the burden of showing that the proposed voting change was not enacted with a discriminatory purpose and will not have a retrogressive effect on minority voting strength. Beer v. United States, 425 U.S. 130 (1976); City of Richmond v. United States, 422 U.S. 358 (1975); Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In amending the Voting Rights Act in 1982, Congress expressed an intention "that a Section 5 objection also follow if a new voting procedure itself so discriminates as to violate Section 2 [of the Voting Rights Act]." S. Rep. No. 97-417, 97th Cong., 2d s. 12 n. 31 (1982).

In evaluating your submission in light of this legal standard, our analysis shows that the proposed changes in the supervisor districts will not have a retrogressive effect on black voters. However, our review of the totality of the circumstances presented by this redistricting reveals that the proposed apportionment plan was designed tc minimize black voting strength in the county and has the result of depriving black voters of an equal opportunity to participate in the political process and to elect candidates of their choice to the board.

In particular, we note that black citizens requested but were denied an opportunity to participate in the development of the plan at issue. No satisfactory explanation was provided to our request as to why the board proceeded in this manner. After the plan was prepared initially by a consultant, black citizens voiced strong opposition and protested that the plan denied them a fair opportunity to elect candidates of their choice from any of the five districts. Yet, the plan was adopted by the board without alteration. Our analysis confirms that the submitted plan, in the context of prevailing patterns of racial bloc voting, does not offer black voters an equal opportunity to elect candidates of their choice to the board.

Moreover, an alternate redistricting plan submitted to the board by the black community was summarily rejected without explanation. While we express no opinion as to the merits or demerits of that alternative, the board's refusal to give serious consideration to the views of some 47 percent of the county population, and its failure to explain such an attitude in response to our specific inquiry in the March 21, 1983 letter, forecloses preclearance. This is particularly so in light of an admittedly long history of racial discrimination in Amite County, the effects of which have not been eliminated completely, and evidence that the board of supervisors has not been responsive to the needs and concerns of black citizens.

In light of these considerations, the county has failed to meet its burden under Section 5 of the Voting Rights Act of demonstrating that the proposed plan for reapportionment of supervisor districts has neither a discriminatory purpose or effect. Accordingly, on behalf of the Attorney General, I must interpose an objection to the plan.

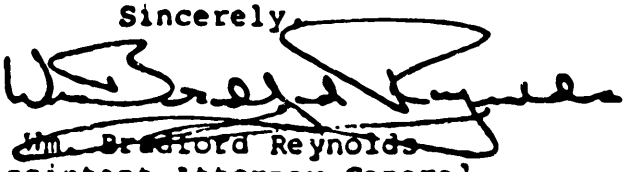
With regard to the proposed justice court districts, our analysis reveals that the proposed districting does not "fairly reflect the strength of black voting power as it exists" in Amite County. Mississippi v. United States, 490 F. Supp. 569, 581 (D. D.C. 1979). Our analysis also shows that easily discernible alternatives would divide the county into two districts of substantially equal population in such a manner that minority voting strength would be fairly recognized. Under these circumstances, I am unable to conclude that the county has satisfied the burden of proof imposed by Section 5. Accordingly, on behalf of the Attorney General, I also must interpose a Section 5 objection to the proposed justice court districts.

The remaining voting changes included in your submission appear to be dependent upon the redistricting plans, and in light of the objection to those plans, we will make no determination as to the remaining voting changes at this time.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the redistricting of supervisor and justice court districts legally unenforceable. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Amite County plans to take with respect to this matter. If you have any questions, feel free to call Paul F. Hancock (202-724-3095), Assistant for Litigation of the Voting Section.

Sincerely,



William Bradford Reynolds
Assistant Attorney General
Civil Rights Division

Appendix F

Sample Comments on a Proposed Voting Change (Redistricting) and the Letter of Objection to the Change

Mexican American
Legal Defense
and Educational Fund

Petroleum Commerce Building
North St. Mary's Street
San Antonio, Texas 78205
(512) 224-5476

MALDEF

April 8, 1980

Mr. Gerald Jones, Chief
Voting Section
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

RE: Jim Wells County - Redistricting

Dear Mr. Jones:

The Department of Justice is currently reviewing the February 19, 1980, proposed redistricting plan for the County Commissioners' Precincts of Jim Wells County. MALDEF strongly urges that an objection be issued for the following reasons:

1. This plan will not provide minorities with greater access to the political system.

2. The area of Alice that is most heavily populated by Chicanos is gerrymandered into four separate commissioners' precincts.

3. The Commissioners Court is unresponsive to the particularized needs of the minority community.

4. The plan was designed with discriminatory intent.

5. The plan is inconsistent with Department of Justice policies and standards set forth in United Jewish Organization v. Carey, 430 U.S. 144, 97 S. Ct. 996 (1977).

I.

The proposed redistricting plan will not provide minorities with greater access to the political system in Jim Wells County. According to figures submitted by the County, the percentage of Mexican-Americans in each commissioner precinct will be 75.56% in Precinct 1, 57.40% in Precinct 2, 56.12% in Precinct 3 and 65.74% in Precinct 4. The effect of this plan is no different

National Office
28 Geary Street
San Francisco, CA 94108
(415) 981-5800

Regional Offices
250 W. Fourteenth Avenue, Suite 308, Denver, CO 80204, (303) 893-1893
1636 West Eighth Street, Suite 319, Los Angeles, CA 90017, (213) 383-6952
Petroleum Commerce Bldg., 201 North St. Mary's Street, San Antonio, TX 78205, 512/224-5476
1411 K Street, NW, Suite 300, Washington, DC 20005, (202) 393-5111

than other plans proposed by the County; again only one commissioner precinct will provide minorities with access to the Commissioners' Court. This is supported not only by a concensus of opinion among the leaders of the Mexican-American community but also by past events. In the past, Precinct 4 has had approximately a 65% Mexican American concentration and yet it has not been possible to elect a Mexican-American from this precinct.

Our community contacts[1] in Jim Wells County have explained that the Mexican-American vote in Precinct 4 is controlled in the following manner: The Precinct 4 Commissioner saves most of his budget during the first three and a half years after his election. Then six months before he is to run for re-election he begins spending this rather large sum of money. As a result, hiring of Mexican-Americans in need of employment increases during this time; it is not coincidental that hiring is generally restricted to those persons who are registered to vote. Political patronage seems to be the key to the Anglo candidate's success in Precinct 4.

II.

The proposed plan gerrymanders the area most heavily populated by Mexican-Americans--the barrio--into four separate commissioners precincts. Commissioners in Precincts 2 and 3 are known to be unresponsive and insensitive to the particularlarized needs of the community. For example, there are Mexican-Americans on Road 665 who are without running water. This has been brought to the attention of the Commissioners for Precinct 2, Dinky Price, yet no concrete steps have been taken to alleviate this problem. [2]

To minimize the harm caused by unresponsive commissioners, the Mexican American population should not be divided between Precincts 2 and 3. This division of the barrio constitutes a dilution of minority voting strength. It is possible to formulate a plan that does not have this effect; the MALDEF plan reflects a 73% minority population in Precinct 3. This is non-dilutive when compared to dividing the barrio between Precincts 2 and 3 with 57.4% and 56.12% Mexican-American concentrations respectively.

It should be noted that because the barrio in Alice is large (the area south of Highway 44) division of this area is inescapable. However, the dilutive effect of such division should be minimized (as in the MALDEF plan). The Jim Wells County proposed plan maximizes the dilutive impact by evenly distributing the Chicanos not in Precinct 1 between Precincts 2 and 3.

III.

The proposed plan was drawn with a discriminatory intent. The Jim Wells County Commissioners stated that wide news media coverage was given, along with notice in the newspaper, when the Commissioners met to discuss the redistricting plan. This gives one the illusion that there was significant opportunity for community input. This illusion is quickly dispelled when one examines the facts. All of the plans proposed at the meeting were rejected by the Commissioners' court. The plan submitted to the Department of Justice was drawn up by the county Judge's secretary, in secrecy and behind closed doors. The three Anglo commissioners each paid this person $300 to draw up another plan more to their liking. 3/ There was no opportunity for any input from the leaders of the Mexican-American community. Any attempts by these leaders to gain information or maps of this plan been thwarted. The Judge's secretary simply "forgets" time after time to provide requested material.

IV.

Our community contacts--who are lifelong residents of Jim Wells

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3/ Ibid.

County--have said that there has never been a Mexican American county Judge in the county.[4] It should be noted that candidates for this position run at large. Also, to the best of the their memory, prior to 1964 there had never been any Mexican Americans elected to the Commissioners Court. After 1964, there has never been more than one Mexican American commissioner on the Court at any given time.

Due to this long-term absence of significant representation of minorities and because the Mexican American population is significantly more than 50% of the county's population, it would be appropirate for the minority community to be in the majority of the population in three commissioner's precincts. Because of the standards set forth in United Jewish Organization v. Carey, 430 U.S. 144, 97 S. Ct. 996 (1977) and carried forth by the Department of Justice, it would be appropriate for the minority population to be at least 65% in three precincts. Nothing less will address such a history of underrepresentation.[5]

CONCLUSION

In view of the history of minimal access to the political process, coupled with a history of intentional discrimination against Mexican-Americans, the effect of the Jim Wells County proposed redistricing plan represents an attempt to sustain the existing dilution of Mexican-American voting strength in Jim Wells County. For these reasons we strongly urge the Department of Justice to issue a letter of objection.

Sincerely,

Joaquin G. Avila
Associate Counsel

JGA:ml

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[5] MALDEF would like to request that the Department of Justice not disclose the sources of our information to anyone outside of the agency, in accordance with 28 CFR §51 12(c).

12 AUG 1980

Honorable T. L. Harville
Jim Wells County Judge
200 North Almond Street
Alice, Texas 78332

Dear Judge Harville:

This is in reference to the February, 1980, redistricting plan for Jim Wells County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on June 13, 1980.

We have analyzed carefully the materials contained in your submission, data obtained from the Bureau of the Census and comments from other interested persons. Our analysis reveals that while the proposed plan adequately deals with some of the concerns we had in the previously submitted plan, the plan continues to dilute the voting strength of the minority concentration that exists in the southern portion of the City of Alice by distributing those voters among all four commissioner precincts. On the other hand, it appears that a number of plans were available to the Commissioners Court that would not have had that effect. The adoption of a plan that would maintain Mexican-American voting strength at a minimum level, where alternative options would provide a fairer chance for minority representation, is relevant to the question of an impermissible racial purpose in its adoption (see Wilkes County v. United States, 450 F. Supp. 1171 (D.D.C. 1978), aff'd 439 U.S. 999; see also, 28 C.F.R. 51.19)), particularly where, as here, the plan was drawn with no significant input from the affected minority group.

Under Section 5 of the Voting Rights Act the submitting authority has the burden of proving that a submitted change has no discriminatory purpose or effect. See, e.g., Georgia v. United States, 411 U.S. 526 (1973); 28 C.F.R. 51.19. In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the submitted change.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this change neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.21(b) and (c), 51.23, and 51.24) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the objection by the Attorney General is to make the redistricting plan for Jim Wells County, Texas, legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter of the course of action the Jim Wells County Commissioners Court plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Ms. Elda Gordon (202--724-7403) of our staff, who has been assigned to handle this submission.

Sincerely,

JAMES P. TURNER
Acting Assistant Attorney General
Civil Rights Division

Appendix G

Source Materials

1. All correspondence to the Department of Justice should be sent to:

Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

The telephone number is (202) 663-2151

or

Chief, Voting Section
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

The telephone number is (202) 724-5767

2. Regulations and Useful Publications

Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, as amended, 28 C.F.R. §§51.1-51.54 (1980).

Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups, 28 C.F.R. §§55.1-55.24 (1980).

Federal Election Commission, "Bilingual Election Services: Volume I: *A Handbook of Ideas for Local Election Officials*; Volume II: *A Glossary of Common Spanish Election Terminology*; and Volume III: *A State of the Art Report* (August 1979), available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Federal Election Commission, *Election Directory 1982*, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Barbara Y. Phillips, *How to Use Section 5 of the Voting Rights Act* (3rd ed., 1983), Joint Center for Political Studies, 1301 Pennsylvania Avenue, N.W., Suite 400, Washington, D.C. 20004. (price, $4.95)

American Civil Liberties Union, *The Voting Rights Act: What It Means, How to Make It Work for You* (1983), available from the American Civil Liberties Union, 132 West 43rd St., New York, New York 10036.

Lawyers' Committee for Civil Rights Under Law, *Section 2, Litigation Manual* (Nov., 1983), available from the Lawyers' Committee for Civil Rights Under Law, 1400 'I' St., N.W., Room 400, Washington, D.C. 20005.

3. Resource Organizations

U.S. Commission on Civil Rights
Complaints Unit
1121 Vermont Avenue, N.W.
Washington, D.C. 20425
202/376-8518

American Civil Liberties Union
Southern Regional Office
52 Fairlie St., N.W., Suite 355
Atlanta, Georgia 30303
404/523-2721

Center for Constitutional Rights
P.O. Box 1835
230 Main Steet
Greenville, Mississippi 38701
601/335-2100

Chinese for Affirmative Action
121 Waverly Place
San Francisco, California 94108
415/398-8212

Joint Center for Political Studies
1301 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20004
202/626-3500

Lawyers Committee for Civil Rights Under Law
1400 'I' St., N.W.
Room 400
Washington, D.C. 20005
202/371-1212

League of Women Voters
1730 M Street, N.W.
Washington, D.C. 20036
202/429-1965

Mexican-American Legal Defense and Educational Fund
201 N. St. Mary's Street
Suite 517
San Antonio, Texas 78205
512/224-5476

National Association for the Advancement of Colored People
186 Remsen Street
Brooklyn, New York 11201
212/858-0800

NAACP Legal Defense and Educational Fund inc
99 Hudson Street, 16th Fl.
New York, New York 10013
212/219-1900

National Indian Youth Council
Indian Voter Project
201 Hermosa, N.E.
Albuquerque, N.M. 87108
505/266-7966

Native American Rights Fund
1506 Broadway
Boulder, Colorado 80302
303/447-8760

Puerto Rican Legal Defense and Education Fund
163 W. 125th Street, 9th Fl.
New York, New York 10027
212/219-3360

Southern Regional Council
161 Spring Street, N.W.
Peachtree West Building, Suite 820
Atlanta, Georgia 30303
404/522-8764

Southwest Voter Education Registration Project
201 North St. Mary's Street
Suite 501
San Antonio, Texas 78205
512/222-0224

4. State Election Officials and Agencies

ALABAMA

Secretary of State
Room 105, Capitol Building
Montgomery, Alabama 36104
205/832-3570

ALASKA

Lieutenant Governor
State of Alaska Pouch AA
Juneau, Alaska 99811
907/465-3520

ARIZONA

Secretary of State
Capitol West Wing
1700 West Washington
Phoenix, Arizona 85007
602/255-4285

ARKANSAS

Secretary of State
256 State Capitol Building
Little Rock, Arkansas 72201
501/371-1010

CALIFORNIA

Secretary of State
1230 J Street
Sacramento, California 95814
916/445-6371

COLORADO

Secretary of State
State Social Services Building
1575 Sherman
Denver, Colorado 80203
303/839-3301

CONNECTICUT

Secretary of State
30 Trinity Street
Hartford, Connecticut 06115
203/566-4135

DELAWARE

Secretary of State
Townsend Building
Dover, Delaware 19901
302/736-4111

DISTRICT OF COLUMBIA

Executive Director
Board of Elections and Ethics
Room 4, District Building
Washington, D.C. 20004
202/347-4509

FLORIDA

Secretary of State
The Capitol
Tallahassee, Florida 32304
904/488-3680

GEORGIA

Secretary of State and Chairman,
State Election Board
State Capitol, Room 214
Atlanta, Georgia 30334
404/656-2881

IDAHO

Secretary of State
203 State House
Boise, Idaho 83720
208/334-2300

HAWAII

Lieutenant Governor
State Capitol
Honolulu, Hawaii 96813
808/548-2544

ILLINOIS

Secretary of State
Room 213, State Capitol Building
Springfield, Illinois 62706
217/782-2201

INDIANA

Secretary of State
Room 201, State House
Indianapolis, Indiana 46204
317/232-6531

IOWA

Secretary of State
Capitol Building
Des Moines, Iowa 50319
515/281-5864

KANSAS

Secretary of State
Capitol Building
Topeka, Kansas 66612
913/296-2236

KENTUCKY

Secretary of State
State Capitol
Frankfort, Kentucky 40601
502/564-3490

LOUISIANA

Secretary of State
State Capitol
Baton Rouge, Louisiana 70804
504/342-5710

MAINE

Secretary of State
State House Station 101
Augusta, Maine 04333
207/289-3501

MARYLAND

Secretary of State
State House
Annapolis, Maryland 21404
301/269-3421

MASSACHUSETTS

Secretary of State
State House, Room 340
Boston, Massachusetts 02133
617/727-2800

MICHIGAN

Secretary of State
1st Floor—Treasury Building
Lansing, Michigan 48918
517/373-2510

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Secretary of State
180 State Office Building
St. Paul, Minnesota 55155
612/296-3266

MISSISSIPPI

Secretary of State
State Capitol
Post Office Box 136
Jackson, Mississippi 39205
601/354-6541

MISSOURI

Secretary of State
State Capitol
Jefferson City, Missouri 65101
314/751-2379

MONTANA

Secretary of State
Capitol Station
Helena, Montana 59602
406/449-2034

NEBRASKA

Secretary of State
2300 State Capitol
Lincoln, Nebraska 68509
402/471-2554

NEVADA

Secretary of State
State of Nevada
Department of State
Carson City, Nevada 89710
702/855-5203

NEW HAMPSHIRE

Secretary of State
State House
Concord, New Hampshire 03301
603/271-3242

NEW JERSEY

Secretary of State
State House
Trenton, New Jersey 08625
609/292-3790

NEW MEXICO

Secretary of State
Executive-Legislative Building
Santa Fe, New Mexico 87503
505/827-3601

NEW YORK

Secretary of State
162 Washington Avenue
Albany, New York 12231
518/474-4750

NORTH CAROLINA

Secretary of State
State Capitol
Raleigh, North Carolina 27602
919/733-3433

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30 East Broad Street, 14th Floor
Columbus, Ohio 43216
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OKLAHOMA

Secretary of State
101 State Capitol
Oklahoma City, Oklahoma 73105
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OREGON

Secretary of State
136 State Capitol
Salem, Oregon 97310
503/378-4139

PENNSYLVANIA

Secretary of the Commonwealth
302 North Office Building
Harrisburg, Pennsylvania 17120
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RHODE ISLAND

Secretary of State
State House
Providence, Rhode Island 02903
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SOUTH CAROLINA

Secretary of State
Wade Hampton Office Building
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Columbia, South Carolina 29211
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SOUTH DAKOTA

Secretary of State
Capitol Building
Pierre, South Dakota 57501
605/773-3537

TENNESSEE

Secretary of State
Capitol Building
Nashville, Tennessee 37219
615/741-2816

TEXAS

Secretary of State
State Capitol
Austin, Texas 78711
512/475-4434

UTAH

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Chief Elections Officer
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Salt Lake City, Utah 84114
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VERMONT

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Montpelier, Vermont 05602
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VIRGINIA

Secretary
State Board of Elections
Room 101, 9th Street Office Building
Richmond, Virginia 23219
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WASHINGTON

Secretary of State
Legislative Building
Olympia, Washington 98504
206/753-7121

WEST VIRGINIA

Secretary of State
Chief Elections Division
State Capitol
Charleston, West Virginia 25305
304/348-2112

WISCONSIN

Secretary of State
112 West, State Capitol
Madison, Wisconsin 53702
608/266-3330

WYOMING

Secretary of State
Capitol Building
Cheyenne, Wyoming 82002
307/777-7378

Source. U S. Federal Election Commission, *Election Directory 1982*.

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