

Voting Rights Act Reauthorization of 2006

Voting Rights Act Reauthorization of 2006:
Perspectives on Democracy,
Participation, and Power

Edited by Ana Henderson

Foreword by Christopher Edley, Jr.

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Foreword

The passage of the Voting Rights Act of 1965 provided the single greatest legislative victory in the African-American struggle for political equality and democratic voice. The statute marked the beginning of an extended federal campaign to give effect to the rights contained in the Fifteenth Amendment and to make America live up to its promises of political liberty and freedom. In 1975, the act was amended to extend protection and guarantee voting rights to language minorities—Latinos, Asian Americans, Native Americans, and Alaska Natives. Forty years and several reauthorizations later, the act continues to embrace protections for both racial- and language-minority groups. It remains one of the nation’s premier vehicles for advancing the cause of racial fairness in the electoral arena.

While portions of the Voting Rights Act (“the act”) are permanent, the “special” or temporary provisions of the act were set to expire in 2007. These include those sections that require certain jurisdictions to obtain preclearance, or permission, before instituting changes to their voting practices (“Section 5”), require certain jurisdictions to provide all election related information and assistance in certain languages other than English (“Section 203”), and allow the federal government to send federal observers and examiners to observe election day activities and participate in registering voters (“federal observer provisions”).

In 2005, the Chief Justice Earl Warren Institute for Race, Ethnicity, and Diversity at Boalt Hall School of Law¹ commissioned several studies pertaining to the temporary provisions of the Voting Rights Act to help inform the reauthorization debate with scholarly research. The result of this effort was the production of nearly twenty studies, including both quantitative and legal analyses, pertaining to various aspects of the expiring provisions. A number of studies addressed Section 5 of the act, including papers that gauged the continuing need for and administration of Section 5’s preclearance requirements as well as papers that addressed questions of electoral representation and voter participation, success, and influence. Studies analyzed Section 203, including two articles that

¹ The Chief Justice Earl Warren Institute on Race, Ethnicity, and Diversity is a multidisciplinary, collaborative venture to produce research, research-based policy prescriptions, and curricular innovation on issues of racial and ethnic justice in California and the nation. The Warren Institute’s mission is to engage the most difficult topics related to civil rights, race, and ethnicity in a wide range of legal and public policy subject areas, providing valuable intellectual capital to public and private sector leaders, the media, and the general public, while advancing scholarly understanding. Central to its methods will be concerted efforts to build bridges connecting the world of research with the world of civic action and policy debate so that each informs the other, while preserving the independence, quality and credibility of the academic enterprise.

analyzed covered jurisdictions' compliance with the act and other papers that focused on how Section 203 could be revamped through reauthorization to be more responsive to limited English proficient ("LEP") citizens.

The research was presented at a conference in Washington, D.C., and to congressional staffers in a briefing on Capital Hill in February 2006. Drafts of the studies were made available to congressional staff to help inform congressional decision-making regarding the reauthorization debate. In addition, based on the results of these studies as well as research conducted by Warren Institute staff, the Institute published a paper in May 2006 setting forth several policy recommendations that Congress should consider during the reauthorization debate. This paper was made available to congressional staff, voting rights advocates, and the general public.

Thanks to the efforts of many individuals, organizations, and legislators, the expiring provisions of the Voting Rights Act were reauthorized in July 2006. This was a great victory for voting rights advocates and civil rights law in general, but it does not spell the end of the consideration of issues raised during the reauthorization debate. While the original cause of commissioning this research has now passed, the research set forth in this volume will likely continue to be important even after this legislative milestone. First, the fruits of the studies help us better understand the function of the special provisions of the Voting Rights Act and how they protect minority voting rights. Second, the research findings inform the larger debate and study of the democratic process and access to power in this country, particularly as it pertains to traditionally disenfranchised groups. Third, the research findings will aid the courts that may be called upon to determine the constitutionality of the act as reauthorized. Thus, not only did the research help inform Congress on what action to take in reauthorizing the act, it will also provide the federal courts with information about the continuing need for the act's provisions as well as the basis of Congress's decision-making on these issues. Finally, the research raises questions that deserve further study and perhaps future adjustments to the Voting Rights Act that were not made during this reauthorization.

The Voting Rights Act has been called the "crown jewel" of civil rights legislation. Thanks to its provisions, many minority voters have been able to exercise their rights as citizens to make their voices heard through the electoral process. It is our hope that the Warren Institute's Voting Rights Project has contributed to and will continue to help maintain the brilliance of this crown jewel. The commissioned work set forth here and on the Institute's website is a first step on the path to make this so.

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Part I: Social Science Perspectives

