

## Voting Rights and Democratic Participation: The Decade Ahead Reauthorization of Sections 5 and 203 of the Voting Rights Act

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. 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 several important provisions of the Act are permanent law, in 2007 several sections of the Act will expire unless reauthorized by the Congress. Portions of the Act set to expire include section 5, which requires that certain jurisdictions "preclear" all voting changes with the federal government prior to implementation, and section 203, which requires certain jurisdictions to provide election-related information in languages other than English.

In light of recently-announced constitutional principles restricting remedial civil rights legislation, reauthorizing the VRA demands an ambitious examination of whether and how sections 5 and 203 remain vital to the enfranchisement of communities of color. The increasing diversity and geographic integration of these communities raise the additional issue of how sections 5 and 203 may be amended to ensure continuing responsiveness to these constituencies. The creation of a more inclusive democracy may also have implications for responsiveness of elected officials as well as levels of voter turnout among all groups in society. The Act's reauthorization and/or amendment, and its subsequent implementation by the Executive Branch and the federal courts, may depend on the effective research and persuasive argument of advocates and scholars. These key voices must demonstrate how the Act has served (and might better serve) to facilitate the political engagement of racial, ethnic, and language minority groups.

To this end, the Warren Institute of the University of California at Berkeley solicited proposals for scholarship and commissioned a series of research and policy papers. Commissioned research focuses on the social science and legal questions likely to be of critical importance to public debate and policymaking around the upcoming congressional reauthorization of key provisions in the Voting Rights Act of 1965. Finished products will be made available to the public, the media, policy actors, civil rights organizations and to members of Congress.

To help guide this initiative, the Warren Institute assembled an extraordinary group of scholars and practitioners on the Voting Rights Research Advisory Board, all of whom share our confidence that superb scholarship can, if focused on the crucial questions, make a critical contribution to the renewal of and reinvigorated implementation of this foundational element of democracy and civil rights.

Commissioned research topics regarding Section 5 of the Act include:

Analysis of voting behavior to identify the presence of racial block voting – the degree to which voters of one racial background vote for or against candidates of a race – and the impact such voting patterns have on minority and non-minority candidates.

The strengths and weaknesses of the Section 5 “bailout” provisions.

Studies of the Department of Justice’s administrative review of voting changes submitted by Section 5 jurisdictions.

Studies of the impact of Section 5 requirements on minority voter participation and electoral success.

Analysis of the standards of review governing Section 5 preclearance decisions, including whether and how such standards should be amended to improve protection of minority voters and candidates.

Studies of the demographic composition of electoral districts and the responsiveness of elected officials to constituents of color.

Analysis of whether Section 5 requirements are still needed to protect the voting rights of racial minorities.

Commissioned research topics regarding Section 203 of the Act include:

Analysis of information received from local, county, and state officials regarding the degree to which they have complied with Section 203 requirements and the costs of their efforts.

How bilingual election assistance would impact voters with limited English proficiency.

Analysis of how changing the formulae now used to determine which jurisdictions are required to provide bilingual assistance would impact the availability of bilingual services available to limited English proficient citizens.

Analysis of language assistance through various legal lenses and bodies of civil rights thought.

Arguments for and against extending Section 203 to languages currently not covered by the Act.

The Institute has also commissioned larger studies regarding the impact of the Act, including:

Creation and analysis of a database logging all judicial decisions in cases brought under Section 2 of the Act, cataloging which factors from the Senate Report accompanying the 1982 Voting Rights Act Amendments were found to exist and whether a Section 2 violation was found.

Analysis of the characteristics of local elections and how they constitute unique barriers to minority participation and representation not found in national elections.

Studies of relationships between electoral district demography, co-ethnic candidates, and voter turnout.