

THE PRESIDENT'S PROPOSED 1965 VOTING RIGHTS BILL

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."

Section 2

No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

Section 3

A

No person 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 or in any political subdivision of a state which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, and with respect to which (2) the Director of the Census determines that less than 50 per cent of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per cent of such persons voted in the Presidential election of November, 1964.

B

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.

C

Any state with respect to which determinations have been made under subsection (A) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the 10 years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color.

If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (A) and the examiner procedure established by this ACT shall after judgment be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this sub-section shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of 10 years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this ACT, determining that denials or abridgments of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

Section 4A

Whenever the Attorney General certifies (1) that he has received complaints in writing from 20 or more residents of a political subdivision with respect to which determinations have been made under Section 3 (1) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the 15th Amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the commission at any time. Examiners shall be subject to the provisions of Section 9 of the Act of Aug. 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

B- A determination or certification of the Attorney General or of the Director of the Census under Section 3 or 4 shall be final and effective upon publication in the Federal Register.

Section 4A- The examiners for each political subdivision shall 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, and that, within 90 days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person under color of law: provided, that the requirement of the latter allegation may be waived by the Attorney General.

B - Any person whom the examiner finds to have the qualifications prescribed by state law in accordance with instructions received under Section 6(B) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with Section 6 (A) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, each month to the offices of the appropriate election officials, with copies to the Attorney General and the Attorney General of the state. Any person whose name appears on such a 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 45 days prior to such elections.

C- The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in Section 6(A), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

E- No person shall be denied the right to vote for failure to pay a poll tax if he tenders payment of such tax for the current year to an examiner, whether or not such tender would be timely or adequate under state law. An examiner shall have authority to accept such payment from any person authorized to make an application for listing, and shall issue a receipt for such payment. (See last page for continuation of this subsection.)

Section 6A- Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the commission shall by regulation prescribe. Such challenge shall be entertained only if made within 10 days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it was made. 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 15 days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned 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, and procedures for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission and the commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

Section 7- No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with Section 5(B) to vote, or fail, or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

Section 8- Whenever a state or political subdivision for which determinations are in effect under Section 3 (A) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on Nov. 1, 1966, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the 15th Amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

Section 9A- Whoever shall deprive or attempt to deprive any person of any right secured by Section 2 or 3 or who shall violate Section 7, 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 cast in any such election, or (2) alters any record of voting in such election made by 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, or 7, 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, 7 or 8 or subsection (D) 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 to honor listings under this Act.

E- Whenever a person alleges to an examiner within 24 hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. (see last page for continuation of this subsection.)

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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be just provided by law.

Section 10- Listing procedures shall be terminated in any political subdivision of any state whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the 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 or denied the right to vote on account of race or color in such subdivision.

Section 11A- All cases of civil and 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 shall have jurisdiction to issue any declaratory judgment 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- The term "vote" shall have the same meaning as in section 2004 of the revised statutes (42 U.S.C. 197113).

D- Any statement made to an examiner may be the basis for a prosecution under Section 1001 of Title 18, United States Code.

Section 12- There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this act.

Section 13- 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 similiary situated or to other circumstances shall not be affected thereby.

Continuation of Section 5E- The examiner shall transmit promptly any such poll tax payment to the local official authorized to receive such payment under state law, together with the name and address of the applicant.

Continuation of Section 9E- In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.