

PROTECT THE VRA

VOTING RIGHTS ACT: Road to *Shelby County v. Holder*

What is the Voting Rights Act?

- Enforces the promise of the 15th Amendment that the right to vote should not be denied on account of race or color.

15th Amendment of the U.S. Constitution:

- **Section 1.** The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.
- **Section 2.** The Congress shall have power to enforce this article by appropriate legislation.

The Voting Rights Act of 1965

Section 2:

- Applies nationwide
- Prohibits voting discrimination on the basis of race, color, or language minority status
- Can only be used once a discriminatory voting law or change has been implemented
- Applies to discriminatory voting procedures, including redistricting plans, voter ID requirements, poll worker hiring, and voter registration procedures.

Section 5:

- Section 5 is one of the most important provisions of the VRA. It requires that all or part of 16 states with a history of discrimination in voting submit voting changes for federal approval before they can be implemented.
- Stops voting discrimination before it begins
- Requires covered jurisdictions to show that a voting change is not discriminatory
- Covers **more jurisdictions** than the South

Entire State Covered:

- Alabama
- **Alaska**
- **Arizona**
- Georgia
- Louisiana
- Mississippi
- South Carolina
- Texas
- Virginia

Jurisdictions within a State Covered:

- **California**
- Florida
- **Michigan**
- **New Hampshire**
- **New York**
- North Carolina
- **South Dakota**

PROTECT THE VRA

VOTING RIGHTS ACT: Road to *Shelby County v. Holder*

VRA's Bailout Provision

Any jurisdiction can “bail out” from Section 5 if it can demonstrate compliance with the VRA for the previous 10 years.

- **69 jurisdictions** bailed out between 1984 and 2009, when *Northwest Austin Municipal Utility District No. 1 v. Holder* (NAMUDNO) was decided¹.
- **127 additional jurisdictions** have bailed out, since the NAMUDNO decision.
- **Every** jurisdiction that has applied for a bailout to DOJ since the 1982 amendments went into effect has been granted it.

Section 5 Reauthorization by Congress

- Reauthorized on a bipartisan basis 4 times: 1970, 1975, 1982, 2006
- 2006 vote:
 - 390–33 (House)
 - 98–0 (Senate)
- Congressional record included 15,000 pages and testimony from more than 50 witnesses from both sides of the issue

2009 Challenge to Section 5: Northwest Austin Municipal Utility District, No 1 (NAMUDNO) v. Holder

- Challenge by Texas utility district to the constitutionality of Section 5
- Supreme Court decided the case by expanding the bailout provision without reaching the constitutional question

Now before the U.S. Supreme Court: Shelby Co. v. Holder

- Shelby County is a largely white suburb of Birmingham, AL
- Claim: In 2006, Congress did not have the constitutional authority to reauthorize Section 5. The county is asking that Section 5 be declared unconstitutional.
- U.S. District Court upheld constitutionality, finding Congress acted appropriately. U.S. Court of Appeals affirmed District Court by a vote of 2-1.
- U.S. Court of Appeals: “Congress drew reasonable conclusions from the extensive evidence it gathered . . . [We] owe deference to the considered judgment of the people’s elected representatives.”
- Civil rights intervenors: NAACP LDF, Lawyers’ Committee, ACLU

Why Only Some States Are Covered

- Voting discrimination remains a persistent problem in covered jurisdictions.
- Covered jurisdictions have both a demonstrated history and a contemporary record of implementing discriminatory restrictions on voting.

¹ The number of bailouts for this time period encompasses the time period 1984 (when the 1982 amendments to the bailout provision went into effect) through 2009 when NAMUDNO was decided (including the NAMUDNO decision).

Examples of Section 5 at Work in the 2012 Election

- ***Texas v. Holder***
 - Federal court found that Texas' photo identification requirement was intentionally discriminatory against African Americans and Latinos.
- ***South Carolina v. U.S.***
 - Federal court approved the state's voter ID law in future elections only after DOJ's use of Section 5 ensured that the final law would not discriminate against African-American voters.
- ***Florida v. Holder***
 - Federal court denied approval of Florida's reduction in early voting until state agreed to implement plan that would not make it more difficult for minorities to vote.
- ***Texas v. U.S.***
 - Federal district court denied preclearance to Texas' redistricting plans for Congress, state Senate, and state House, and affirmatively found that the plans for Congress and state Senate were adopted with a racially discriminatory purpose.

Supreme Court Oral Argument

- Rally on Supreme Court house steps
- February 27, 2013, program to begin at 9:00 am
www.ProtecttheVRA.org