

## ASSEMBLY THIRD READING

AJR 31 (Bryan, et al.)

As Introduced May 13, 2026

Majority vote

**SUMMARY**

Calls on Congress to restore and strengthen the protections of the federal Voting Rights Act (VRA) of 1965.

**Major Provisions**

- 1) Calls upon Congress to act with all deliberate speed to enact legislation that restores and strengthens the full protections of the VRA.
- 2) Urges Congress to restore a functional preclearance regime, including a modernized coverage formula grounded in contemporary evidence of discrimination, ensuring that jurisdictions with a record of discriminatory practices must obtain federal approval before implementing voting changes.
- 3) Urges Congress to codify a robust, results-based standard under Section 2, consistent with the principles articulated in *Thornburg v. Gingles*, 478 U.S. 30 (1986) (*Gingles*), and decades of lower court precedent, to explicitly reject the intent-focused narrowing adopted in *Louisiana v. Callais* (*Callais*) and provide meaningful remedies to prevent and redress racial vote dilution and discriminatory districting.
- 4) Calls on Congress to honor the bipartisan legacy of the VRA by ensuring that its protections remain fully effective in the face of contemporary threats.
- 5) Urges the President to sign such legislation promptly upon its passage.

**COMMENTS**

The 15th Amendment to the United States (US) Constitution provides, in part, that "[t]he 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." Additionally, the 15th Amendment authorizes Congress to enact legislation to enforce its provisions. The 15th Amendment was ratified in February 1870.

In 1965, Congress determined that state officials were failing to comply with the provisions of the 15th Amendment. Congressional hearings found that litigation to eliminate discriminatory election practices was largely ineffective, because states and local jurisdictions would institute new discriminatory practices to replace any such practices that were struck down in court. As a result, Congress passed and President Johnson signed the VRA. The VRA, among other provisions, prohibits any "voting qualification or prerequisite to voting or standard, practice, or procedure" from being imposed 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."

Section 2 of the VRA, as originally enacted, prohibited any "voting qualification or prerequisite to voting, or standard, practice, or procedure [from being] imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color." Amendments to the VRA adopted in 1982 specified that a violation of Section 2 of the VRA could be proved by showing that a policy or procedure had a discriminatory *effect*, and made it clear that those challenging such a policy or procedure did not have to prove that it had a discriminatory *purpose*.

*Gingles* was the first case in which the US Supreme Court had the opportunity to consider those 1982 amendments to Section 2. In its decision, the *Gingles* court established a new standard for a plaintiff to establish that an election system dilutes the voting strength of a protected minority group in violation of the VRA. Specifically, the US Supreme Court announced three preconditions that a plaintiff first must establish to prove that an election system diluted the voting strength of a minority group:

- (1) The minority community is sufficiently large and geographically compact that it is possible to create a district in which the minority could constitute a majority in a single-member district;
- (2) The minority community is politically cohesive, in that a significant portion of the minority group usually supports the same candidates; and,
- (3) There is racially polarized voting among the majority community, which usually (but not necessarily always), allows the majority voting as a bloc to defeat the minority's preferred candidate.

Section 5 of the VRA requires certain covered jurisdictions to receive approval for any changes to law and practices affecting voting from the US Department of Justice or the US District Court for the District of Columbia to ensure that the changes do not have the purpose or effect of "denying or abridging the right to vote on account of race or color." The requirement to obtain approval under Section 5 is commonly referred to as a "preclearance" requirement. The jurisdictions subject to that preclearance requirement were identified based on a formula found in Section 4(b) of the VRA.

While much of the VRA is permanent, certain special provisions of the VRA are temporary, including Section 5. When the VRA was enacted, Section 5 was scheduled to expire in five years. Subsequently, Congress extended those provisions for another five years in 1970, an additional seven years in 1975, and an additional 25 years in 1982, and again for an additional 25 years in 2006.

On June 25, 2013, the US Supreme Court, in *Shelby County v. Holder*, held that the coverage formula in Section 4(b) of the VRA is unconstitutional and can no longer be used as a basis for subjecting jurisdictions to pre-clearance under Section 5 of the VRA. The Court stated that although the formula was rational and necessary at the time of its enactment, it is no longer responsive to current conditions. While the Court did not strike down Section 5, its invalidation of the coverage formula in Section 4(b) means that no jurisdiction is subject to Section 5 unless and until Congress enacts a new coverage formula.

Last month, the US Supreme Court ruled in *Callais* that a Louisiana congressional district map that included two majority-minority districts among the state's six congressional districts was unconstitutional. While upholding the constitutionality of Section 2 of the VRA, the majority

opinion of the court also "update[d] the *Gingles* framework" to establish additional criteria for evaluating claims under Section 2, including a requirement that plaintiffs in a Section 2 case demonstrate that a challenged district map was the result of intentional racial discrimination. A dissenting opinion in the case concluded that those changes "render[] Section 2 all but a dead letter."

### **According to the Author**

"The house is on fire. The systems that were erected to protect minority representation after the unconscionable actions of a nation that violently subjugated its Black citizens, are now again being used as an apparatus of oppression, repression and suppression. The Constitution is not self-executing - a brief journey into the electoral history of much of the nation shows that violence and terror have gone hand in hand with regulatory and legislative restrictions to crush the dreams and steal the future of Black communities by ensuring their voices were ignored and their votes did not count.

"If our voice is our power, and voting is the primary expression of that power, the protections of access to the ballot box are the foundations on which we secure a just and fair democratic society.

"We've seen these hurdles before—poll taxes, literacy tests, and moral character exams—all facially race-neutral, but all with the clear intent and effect of suppressing the Black vote. Injustice anywhere is a threat to justice everywhere: California must not be silent. We are more than three-fifths of a human. We are not going back."

### **Arguments in Support**

None received.

### **Arguments in Opposition**

None received.

## **FISCAL COMMENTS**

None. This resolution is keyed non-fiscal by the Legislative Counsel.

## **VOTES**

## **UPDATED**

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