

118TH CONGRESS
2D SESSION

S. _____

Protecting the right to vote in elections for Federal office, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. OSSOFF (for himself, Ms. KLOBUCHAR, Mr. WARNOCK, Mr. PADILLA, Mr. KING, Mr. MERKLEY, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

Protecting the right to vote in elections for Federal office, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Right to Vote Act”.

1 **SEC. 2. UNDUE BURDENS ON THE ABILITY TO VOTE IN**
2 **ELECTIONS FOR FEDERAL OFFICE PROHIB-**
3 **ITED.**

4 (a) **IN GENERAL.**—Every citizen of legal voting age
5 shall have the fundamental right to vote in elections for
6 Federal office.

7 (b) **RETROGRESSION.**—A government may not dimin-
8 ish the ability to vote in an election for Federal office un-
9 less the law, rule, standard, practice, procedure, or other
10 governmental action causing the diminishment is the least
11 restrictive means of significantly furthering an important,
12 particularized government interest.

13 (c) **SUBSTANTIAL IMPAIRMENT.**—A government may
14 not substantially impair the ability to vote in an election
15 for Federal office unless the law, rule, standard, practice,
16 procedure, or other governmental action causing the im-
17 pairment significantly furthers an important, particular-
18 ized government interest. A substantial impairment is a
19 non-trivial impairment that makes it more difficult to vote
20 than if the law, rule, standard, practice, procedure, or
21 other governmental action had not been adopted or imple-
22 mented. An impairment may be substantial even if the
23 voter or other similarly situated voters are able to vote
24 notwithstanding the impairment.

1 **SEC. 3. JUDICIAL REVIEW.**

2 (a) CIVIL ACTION.—An action challenging a violation
3 of the rights created by this Act may be brought in the
4 district court for the District of Columbia, or the district
5 court for the district in which the violation took place or
6 where any defendant resides or does business, at the selec-
7 tion of the plaintiff, to obtain all appropriate relief, wheth-
8 er declaratory or injunctive, or facial or as-applied. Proc-
9 ess may be served in any district where a defendant re-
10 sides, does business, or may be found.

11 (b) STANDARDS TO BE APPLIED.—Courts adjudi-
12 cating actions brought to enforce the rights created by this
13 Act shall apply the following standards:

14 (1) RETROGRESSION.—

15 (A) A plaintiff establishes a prima facie
16 case of retrogression by demonstrating by a
17 preponderance of the evidence that a rule,
18 standard, practice, procedure, or other govern-
19 mental action diminishes the ability, or other-
20 wise makes it more difficult, to vote.

21 (B) Once a plaintiff establishes a prima
22 facie case as described in subparagraph (A), the
23 government shall be provided an opportunity to
24 demonstrate by clear and convincing evidence
25 that the diminishment is necessary to signifi-

1 cantly further an important, particularized gov-
2 ernmental interest.

3 (C) If the government meets its burden
4 under subparagraph (B), the challenged rule,
5 standard, practice, procedure, or other govern-
6 mental action shall nonetheless be deemed in-
7 valid if the plaintiff demonstrates by a prepon-
8 derance of the evidence that the government
9 could adopt or implement a less-restrictive
10 means of furthering the particular important
11 governmental interest.

12 (2) SUBSTANTIAL IMPAIRMENT.—

13 (A) A plaintiff establishes a prima facie
14 case of substantial impairment by dem-
15 onstrating by a preponderance of the evidence
16 that a rule, standard, practice, procedure, or
17 other governmental action substantially impairs
18 the ability, or makes it substantially difficult, to
19 vote.

20 (B) Once a plaintiff establishes a prima
21 facie case as described in subparagraph (A), the
22 government shall be provided an opportunity to
23 demonstrate by clear and convincing evidence
24 that the impairment significantly furthers an
25 important, particularized governmental interest.

1 (c) DUTY TO EXPEDITE.—It shall be the duty of the
2 court to advance on the docket and to expedite to the
3 greatest reasonable extent the disposition of the action
4 and appeal under this section.

5 (d) ATTORNEY’S FEES.—Section 722(b) of the Re-
6 vised Statutes (42 U.S.C. 1988(b)) is amended—

7 (1) by striking “or section 40302” and insert-
8 ing “section 40302”; and

9 (2) by striking “, the court” and inserting “, or
10 the Right to Vote Act, the court”.

11 **SEC. 4. DEFINITIONS.**

12 In this Act—

13 (1) the term “covered entity” means the Dis-
14 trict of Columbia, the Commonwealth of Puerto
15 Rico, and each territory and possession of the
16 United States;

17 (2) the terms “election” and “Federal office”
18 have the meanings given such terms in section 301
19 of the Federal Election Campaign Act of 1971 (52
20 U.S.C. 30101);

21 (3) the term “government” includes a branch,
22 department, agency, instrumentality, and official (or
23 other person acting under color of law) of the
24 United States, of any State, of any covered entity,

1 or of any political subdivision of any State or cov-
2 ered entity; and

3 (4) the term “vote” means all actions necessary
4 to make a vote effective, including registration or
5 other action required by law as a prerequisite to vot-
6 ing, casting a ballot, and having such ballot counted
7 and included in the appropriate totals of votes cast
8 with respect to candidates for public office for which
9 votes are received in an election.

10 **SEC. 5. RULES OF CONSTRUCTION.**

11 (a) BURDENS NOT AUTHORIZED.—Nothing in this
12 Act may be construed to authorize a government to burden
13 the right to vote in elections for Federal office.

14 (b) OTHER RIGHTS AND REMEDIES.—Nothing in
15 this Act shall be construed as indicating an intent on the
16 part of Congress to alter any rights existing under a State
17 constitution or the Constitution of the United States, or
18 to limit any remedies for any other violations of Federal,
19 State, or local law.

20 (c) OTHER PROVISION.—Nothing in this Act shall be
21 construed as conflicting with section 1703 (“Rights of
22 Citizens”) of S.1 of the 118th Congress.

23 **SEC. 6. SEVERABILITY.**

24 If any provision of this Act or the application of such
25 provision to any citizen or circumstance is held to be un-

1 constitutional, the remainder of this Act and the applica-
2 tion of the provisions of such to any citizen or cir-
3 cumstance shall not be affected thereby.

4 **SEC. 7. EFFECTIVE DATES.**

5 (a) ACTIONS BROUGHT FOR RETROGRESSION.—Sub-
6 section (b) of section 2 shall apply to any law, rule, stand-
7 ard, practice, procedure, or other governmental action that
8 was not in effect during the November 2022 general elec-
9 tion for Federal office but that will be in effect with re-
10 spect to elections for Federal office occurring on or after
11 September 1, 2024, even if such law, rule, standard, prac-
12 tice, procedure, or other governmental action is already
13 in effect as of the date of enactment of this Act.

14 (b) ACTIONS BROUGHT FOR SUBSTANTIAL IMPAIR-
15 MENT.—Subsection (c) of section 2 shall apply to any law,
16 rule, standard, practice, procedure, or other governmental
17 action in effect with respect to elections for Federal office
18 occurring on or after September 1, 2024.