

SENATE, No. 2997

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED SEPTEMBER 22, 2022

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Senator JOSEPH P. CRYAN

District 20 (Union)

Co-Sponsored by:

Senator Zwicker

SYNOPSIS

Establishes “John R. Lewis Voting Rights Act of New Jersey.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/23/2023)

1 AN ACT establishing the “John R. Lewis Voting Rights Act of New
2 Jersey” and supplementing Title 19 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “John R.
8 Lewis Voting Rights Act of New Jersey.”

9

10 2. a. In recognition of the protections for the right to vote
11 provided by the Constitution of the United States, the Constitution
12 of the State of New Jersey, and under the laws of New Jersey, and
13 in conjunction with the constitutional guarantees of equal
14 protection, freedom of expression, and freedom of association under
15 the law and against the denial or abridgement of the voting rights of
16 members of a race, color, or language-minority group, it is the
17 public policy of the State of New Jersey to:

18 (1) encourage participation in the elective franchise by all
19 eligible voters to the maximum extent; and

20 (2) ensure that eligible voters who are members of racial, color,
21 and language-minority groups shall have an equal opportunity to
22 participate in the political processes of the State of New Jersey, and
23 especially to exercise the elective franchise.

24 b. In further recognition of the protections for the right to vote
25 provided by the Constitution of the State of New Jersey, all statutes,
26 rules, and regulations, including all local laws or ordinances related
27 to the elective franchise shall be construed liberally in favor of:

28 (1) protecting the right of voters to have their ballot cast and
29 counted;

30 (2) ensuring that eligible voters are not impaired in registering
31 to vote; and

32 (3) ensuring voters of race, color, and language-minority groups
33 have equitable access to fully participate in the electoral process in
34 registering to vote and voting.

35 c. The authority to prescribe or maintain voting or elections
36 policies and practices shall not be so exercised as to unnecessarily
37 deny or abridge the right to vote. Policies and practices that burden
38 the right to vote shall be narrowly tailored to promote a compelling
39 policy justification that shall be supported by substantial evidence.

40

41 3. As used in this act, P.L. , c. (C.)(pending before the
42 Legislature as this bill):

43 “Deceptive or fraudulent device, contrivance, or communication”
44 means one that contains false information pertaining to:

45 (1) the time, place, and manner of any election;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (2) the qualifications or restrictions on voter eligibility for such
2 election; or

3 (3) a statement of endorsement by any specifically named
4 person, political party, or organization.

5 “Division on Civil Rights” means the Division on Civil Rights in
6 the New Jersey Department of Law and Public Safety.

7 “Federal voting rights act” means the federal Voting Rights Act
8 of 1965, 52 U.S.C. s.10301 et seq., as amended.

9 “Government enforcement action” means a denial of
10 administrative or judicial preclearance by the State or federal
11 government, pending litigation filed by a federal or State entity, a
12 final judgment or adjudication, a consent decree, or similar formal
13 action.

14 “Language minorities” or “language-minority group” means
15 persons who are American Indian, Asian American, Alaskan
16 Natives or of Spanish heritage.

17 “Political subdivision” means a geographic area of representation
18 created for the provision of government services, including, but not
19 limited to, a county, city, town, village, borough, school district, or
20 any other district organized pursuant to State or local law.

21 “Preclearance” means the process of obtaining prior approval
22 from the Division on Civil Rights or a court of this State of any
23 changes related to election procedures in a political subdivision.

24 “Protected class” means a class of eligible voters who are
25 members of a race, color, or language-minority group.

26 “Racially polarized voting” means voting in which there is a
27 divergence in the candidate, political preferences, or electoral
28 choice of members in a protected class from the candidates, or
29 electoral choice of the rest of the electorate.

30 “State voting rights act” means the “John R. Lewis Voting
31 Rights Act of New Jersey” established pursuant to P.L. , c.
32 (C.)(pending before the Legislature as this bill).

33

34 4. No voting qualification, prerequisite to voting, law,
35 ordinance, standard, practice, procedure, regulation, or policy shall
36 be enacted or implemented by any county board of elections or
37 political subdivision in a manner that results in a denial or
38 abridgement of the right of members of a protected class to vote.

39 A violation of this section shall be established upon a showing
40 that, based on the totality of the circumstances, members of a
41 protected class have less opportunity than the rest of the electorate
42 to elect candidates of their choice or influence the outcome of
43 elections.

44

45 5. a. No county board of elections or political subdivision shall
46 use any method of election, having the effect of impairing the
47 ability of members of a protected class to elect candidates of their

1 choice or influence the outcome of elections, as a result of vote
2 dilution.

3 b. A violation of this section shall be established upon a
4 showing that during the conduct of an election in a political
5 subdivision:

6 (1) (a) voting patterns of members of the protected class within
7 the political subdivision are racially polarized; or

8 (b) under the totality of the circumstances, the ability of
9 members of the protected class to elect candidates of their choice or
10 influence the outcome of elections is impaired; or

11 (2) the candidates or electoral choices preferred by members of
12 the protected class would usually be defeated, and either:

13 (a) voting patterns of members of the protected class within the
14 political subdivision are racially polarized; or

15 (b) under the totality of the circumstances, the ability of
16 members of the protected class to elect candidates of their choice or
17 influence the outcome of elections is impaired.

18 c. For the purposes of demonstrating that a violation of this
19 section has occurred, evidence shall be weighed and considered as
20 follows:

21 (1) elections conducted prior to the filing of an action pursuant
22 to this act are more probative than elections conducted after the
23 filing of the action;

24 (2) evidence concerning elections for members of the governing
25 body of the political subdivision are more probative than evidence
26 concerning other elections;

27 (3) statistical evidence is more probative than non-statistical
28 evidence;

29 (4) where there is evidence that more than one protected class of
30 eligible voters are politically cohesive in the political subdivision,
31 members of each of those protected classes may be combined;

32 (5) evidence concerning the intent on the part of the voters,
33 elected officials, or the political subdivision to discriminate against
34 a protected class shall be not required;

35 (6) evidence that voting patterns and election outcomes could be
36 explained by factors other than racially polarized voting, including,
37 but not limited to, partisanship, shall not be considered;

38 (7) evidence that sub-groups within a protected class have
39 different voting patterns shall not be considered;

40 (8) evidence concerning whether members of a protected class
41 are geographically compact or concentrated shall not be considered,
42 but may be a factor in determining an appropriate remedy; and

43 (9) evidence concerning projected changes in population or
44 demographics shall not be considered, but may be a factor, in
45 determining an appropriate remedy.

46

47 6. a. In determining whether, under the totality of the
48 circumstances, a violation of sections 4 and 5 of this act, P.L. , c.

1 (C. and C.)(pending before the Legislature as this bill),
2 has occurred, factors that may be considered shall include, but not
3 be limited to:

4 (1) the history of discrimination in or affecting the political
5 subdivision;

6 (2) the extent to which members of the protected class have
7 been elected to office in the political subdivision;

8 (3) the use of any voting qualification, prerequisite to voting,
9 law, ordinance, standard, practice, procedure, regulation, or policy
10 that may enhance the dilutive effects of the election scheme;

11 (4) denying eligible voters or candidates who are members of
12 the protected class to processes determining which groups of
13 candidates receive access to the ballot, financial support, or other
14 support in a given election;

15 (5) the extent to which members of the protected class
16 contribute to political campaigns at lower rates;

17 (6) the extent to which members of a protected class in the State
18 or political subdivision vote at lower rates than other members of
19 the electorate;

20 (7) the extent to which members of the protected class are
21 disadvantaged in areas including, but not limited to, education,
22 employment, health, public safety, housing, land use, or
23 environmental protection;

24 (8) the extent to which members of the protected class are
25 disadvantaged in other areas which may hinder their ability to
26 participate effectively in the political process;

27 (9) the use of overt or subtle racial appeals in political
28 campaigns;

29 (10) a significant lack of responsiveness on the part of elected
30 officials to the particularized needs of members of the protected
31 class; and

32 (11) whether the political subdivision has a compelling policy
33 justification that is substantiated and supported by evidence for
34 adopting or maintaining a particular process of the election or the
35 voting qualification, prerequisite to voting, law, ordinance,
36 standard, practice, procedure, regulation, or policy.

37 b. Nothing in this section shall preclude any additional factors
38 from being considered, nor shall any specified number of factors be
39 required in establishing that such a violation has occurred.

40

41 7. a. Upon a finding of a violation of any provision of this act, a
42 court of this State shall implement appropriate remedies to ensure
43 that voters of race, color, and language-minority groups have
44 equitable access to fully participate in the electoral process, which
45 may include, but shall not be limited to:

46 (1) alternative processes to conduct an election;

47 (2) new or revised apportionment or redistricting plans;

- 1 (3) elimination of staggered elections so that all members of the
- 2 governing body are elected on the same date;
- 3 (4) reasonably increasing the size of the governing body;
- 4 (5) moving the date of an election, if consistent with federal and
- 5 State law, to be concurrent with the primary or general election
- 6 dates for State, county, or local public office;
- 7 (6) transferring authority for conducting the political
- 8 subdivision's elections to the county board of elections for the
- 9 county in which the political subdivision is located;
- 10 (7) additional voting hours or days;
- 11 (8) additional polling locations;
- 12 (9) additional means of voting such as voting by mail;
- 13 (10) ordering of special elections;
- 14 (11) requiring expanded opportunities for voter registration;
- 15 (12) requiring additional voter education;
- 16 (13) modifying the election calendar;
- 17 (14) the restoration or addition of persons to registration lists; or
- 18 (15) retaining jurisdiction for such period of time on a given
- 19 matter as a court of this State may deem appropriate, during which
- 20 no apportionment or redistricting plan shall be enforced unless and
- 21 until a court of this State finds that such plan does not have the
- 22 purpose of diluting the right to vote on the basis of protected class
- 23 membership, or in contravention of the voting guarantees set forth
- 24 in this act, except that the court's finding shall not bar a subsequent
- 25 action to enjoin enforcement of such apportionment or redistricting
- 26 plan.
- 27 b. A court of this State shall consider proposed remedies by
- 28 any parties and interested non-parties, but shall not provide
- 29 deference or priority to a proposed remedy offered by the political
- 30 subdivision. The court shall have the power to require a political
- 31 subdivision to implement remedies that are inconsistent with any
- 32 other provision of law where such inconsistent provision of law
- 33 would preclude the court from ordering an otherwise appropriate
- 34 remedy in such matter.
- 35
- 36 8. a. The governing body of a political subdivision with the
- 37 authority under this act and all applicable State and local laws to
- 38 conduct an election, or enact and implement a new apportionment
- 39 or redistricting plan, shall undertake each of the steps enumerated in
- 40 this section concerning draft apportionment or redistricting plans
- 41 and, if applicable, NJVRA notification letters, as defined in section
- 42 9 of P.L. , c. (C.)(pending before the Legislature as this
- 43 bill), or the filing of a claim pursuant to this act or the federal
- 44 voting rights act.
- 45 b. Before drawing a draft apportionment or redistricting plan or
- 46 plans of the proposed boundaries of the districts, the political
- 47 subdivision shall hold at least three public hearings, at which the
- 48 public is invited to provide input regarding the composition of the

1 districts. Before these public hearings, the political subdivision
2 may conduct outreach to the public, including to non-English-
3 speaking communities, to explain the apportionment or redistricting
4 process and to encourage public participation.

5 c. After all draft apportionment or redistricting plans are drawn,
6 the political subdivision shall publish and make available for
7 release at least one draft apportionment or redistricting plan and, if
8 members of the governing body of the political subdivision would
9 be elected in their districts at different times to provide for
10 staggered terms of office, the potential sequence of such elections.
11 The political subdivision shall also hold at least two additional
12 hearings, at which the public shall be invited to provide input
13 regarding the content of the draft apportionment or redistricting
14 plan or plans and the proposed sequence of elections, if applicable.
15 The draft apportionment or redistricting plan or plans shall be
16 published at least seven days before consideration at a hearing. If
17 the draft apportionment or redistricting plan or plans are revised at
18 or following a hearing, the revised versions shall be published and
19 made available to the public for at least seven days before being
20 adopted.

21 d. In determining the final sequence of the district elections
22 conducted in a political subdivision in which members of the
23 governing body will be elected at different times to provide for
24 staggered terms of office, the governing body shall give special
25 consideration to the purposes of this act, and it shall take into
26 account the preferences expressed by members of the districts.

27
28 9. a. Before commencing a judicial action against a political
29 subdivision under this section, a prospective plaintiff shall send by
30 certified mail a written notice to the clerk of the political
31 subdivision, or, if the political subdivision does not have a clerk,
32 the governing body of the political subdivision, against which the
33 action would be brought, asserting that the political subdivision
34 may be in violation of this act. This written notice shall be referred
35 to as a "NJVRA notification letter" in this act. For actions against a
36 school district, the prospective plaintiff shall also send by certified
37 mail a copy of the NJVRA notification letter to the Commissioner
38 of Education.

39 b. A prospective plaintiff shall not commence a judicial action
40 against a political subdivision under this section within 50 days of
41 sending to the political subdivision a NJVRA notification letter.

42 c. Before receiving a NJVRA notification letter, or within 50
43 days of mailing of a NJVRA notification letter, the governing body
44 of a political subdivision may pass a resolution affirming:

45 (1) the political subdivision's intention to enact and implement a
46 remedy for a potential violation of this act;

47 (2) specific steps the political subdivision will undertake to
48 facilitate approval and implementation of such a remedy; and

1 (3) a schedule for enacting and implementing such a remedy.

2 Such a resolution shall be referred to as a “NJVRA resolution” in
3 this act. If a political subdivision passes a NJVRA resolution, such
4 political subdivision shall have 90 days after such passage to enact
5 and implement such remedy, during which a prospective plaintiff
6 shall not commence an action to enforce this section against the
7 political subdivision. For actions against a school district, the
8 Commissioner of Education may order the enactment of a NJVRA
9 resolution.

10 d. If the governing body of a political subdivision lacks the
11 authority under this act or applicable State law or local laws to
12 enact or implement a remedy identified in a NJVRA resolution, or
13 fails to enact or implement a remedy identified in a NJVRA
14 resolution, within 90 days after the passage of the NJVRA
15 resolution, or if the political subdivision is a covered entity as
16 defined under subsection c. of section 11 of this act, P.L. , c.
17 (C.)(pending before the Legislature as this bill), the governing
18 body of the political subdivision shall undertake the steps
19 enumerated in the following provisions:

20 (1) the governing body of the political subdivision may approve
21 a proposed remedy that complies with this act and submit such a
22 proposed remedy to the Division on Civil Rights. Such a
23 submission shall be referred to as a “NJVRA proposal” in this act;

24 (2) prior to passing a NJVRA proposal, the political subdivision
25 shall hold at least one public hearing, at which the public shall be
26 invited to provide input regarding the NJVRA proposal. Before this
27 hearing, the political subdivision may conduct outreach to the
28 public, including to non-English-speaking communities, to
29 encourage public participation;

30 (3) within 45 days of receipt of a NJVRA proposal, the Division
31 on Civil Rights shall grant or deny approval of the NJVRA
32 proposal; and

33 (4) the Division on Civil Rights shall only grant approval to the
34 NJVRA proposal if it concludes that:

35 (a) the political subdivision may be in violation of this act;

36 (b) the NJVRA proposal would remedy any potential violation
37 of this act;

38 (c) the NJVRA proposal is unlikely to violate the United States
39 Constitution, New Jersey Constitution, or any federal or State law;

40 (d) the NJVRA proposal would not diminish the ability of
41 protected class members to participate in the political process and to
42 elect their preferred candidates to office; and

43 (e) implementation of the NJVRA proposal is feasible;

44 (5) if the Division on Civil Rights grants approval, the NJVRA
45 proposal shall be enacted and implemented immediately,
46 notwithstanding any other law, rule, or regulation to the contrary;

47 (6) if the political subdivision is a covered entity as defined
48 under subsection c. of section 11 of this act, the political

1 subdivision shall not be required to obtain preclearance for the
2 NJVRA proposal pursuant to such section upon approval of the
3 NJVRA proposal by the Division on Civil Rights;

4 (7) if the Division on Civil Rights denies approval, the NJVRA
5 proposal shall not be enacted or implemented, and the Division on
6 Civil Rights shall explain the basis for such denial and may, in its
7 discretion, make recommendations for an alternative remedy for
8 which it would grant approval; and

9 (8) if the Division on Civil Rights does not respond, the NJVRA
10 proposal shall not be enacted or implemented.

11 e. A political subdivision that has passed a NJVRA resolution
12 may enter into an agreement with the prospective plaintiff providing
13 that such prospective plaintiff shall not commence an action
14 pursuant to this section against the political subdivision for an
15 additional 90 days. Such agreement shall include a requirement that
16 either the political subdivision shall enact and implement a remedy
17 that complies with this act or the political subdivision shall pass a
18 NJVRA proposal and submit it to the Division on Civil Rights.

19 f. If, pursuant to a process commenced by a NJVRA
20 notification letter, a political subdivision enacts or implements a
21 remedy or the Division on Civil Rights grants approval to a NJVRA
22 proposal, a prospective plaintiff who sent the NJVRA notification
23 letter may, within 30 days of the enactment or implementation of
24 the remedy or approval of the NJVRA proposal, demand
25 reimbursement for the cost of the work product generated to support
26 the NJVRA notification letter. A prospective plaintiff shall make
27 the demand in writing and shall substantiate the demand with
28 financial documentation, such as a detailed invoice for demography
29 services or for the analysis of voting patterns in the political
30 subdivision. A political subdivision may request additional
31 documentation if the provided documentation is insufficient to
32 corroborate the claimed costs. A political subdivision shall
33 reimburse a prospective plaintiff for reasonable costs claimed, or in
34 an amount to which the parties mutually agree. The cumulative
35 amount of reimbursements to all prospective plaintiffs, except for
36 actions brought by the Attorney General, shall not exceed \$43,000,
37 as adjusted annually to the consumer price index for all urban
38 consumers, United States city average, as published by the United
39 States Department of Labor. To the extent a prospective plaintiff
40 who sent the NJVRA notification letter and a political subdivision
41 are unable to come to a mutual agreement, either party may file a
42 declaratory judgment action to obtain a clarification of rights.

43 g. Notwithstanding the provisions of this section, in the event
44 that the first day for designating petitions for a political
45 subdivision's next regular election to select members of its
46 governing board has begun or is scheduled to begin within 30 days,
47 or in the event that a political subdivision is scheduled to conduct
48 any election within 120 days, a plaintiff alleging any violation of

1 this act may commence a judicial action against a political
2 subdivision under this section, provided that the relief sought by
3 such a plaintiff includes preliminary relief for that election. Prior to
4 or concurrent with commencing such a judicial action, any such
5 plaintiff shall also submit a NJVRA notification letter to the
6 political subdivision. In the event that a judicial action commenced
7 under this section is withdrawn or dismissed for mootness because
8 the political subdivision has enacted or implemented a remedy or
9 the Division on Civil Rights has granted approval of a NJVRA
10 proposal pursuant to a process commenced by a NJVRA
11 notification letter, any such plaintiff may only demand
12 reimbursement pursuant to this section.

13 h. Members of different protected classes may file an action
14 jointly pursuant to this act in the event that they demonstrate that
15 the combined voting preferences of the multiple protected classes
16 are polarized against the rest of the electorate.

17

18 10. a. A county board of elections or a political subdivision that
19 administers elections shall provide language-related assistance in
20 voting and elections to a language-minority group in a political
21 subdivision if, based on data from the United States Census Bureau
22 American Community Survey, or data of comparable quality
23 collected by a public office, that:

24 (1) more than two percent, but in no instance fewer than 300
25 individuals, of the citizens of voting age of a political subdivision
26 are members of a single language-minority group and are limited
27 English proficient; or

28 (2) more than 4,000 of the citizens of voting age of such
29 political subdivision are members of a single language-minority
30 group and are limited English proficient.

31 b. A county board of elections or political subdivision required
32 to provide language assistance to a particular language-minority
33 group pursuant to this section shall provide voting materials in the
34 covered language of an equal quality of the corresponding English
35 language materials, including registration or voting notices, forms,
36 instructions, assistance, or other materials or information relating to
37 the electoral process, including ballots. Any registration or voting
38 notices, forms, instructions, assistance, or other materials or
39 information relating to the electoral process, including ballots, in a
40 covered political subdivision, shall be provided in the language of
41 the applicable language-minority group as well as in the English
42 language, provided that where the language of the applicable
43 language-minority group is historically oral or unwritten, the county
44 board of elections or political subdivision shall only be required to
45 furnish oral instructions, assistance, or other information relating to
46 registration and voting.

47 c. A county board of elections or political subdivision subject to
48 the requirements of this section which seeks to provide English-

1 only materials may file an action against the State for a declaratory
2 judgment permitting such provision. A court of this State shall
3 grant the requested relief if it finds that the determination was
4 unreasonable or an abuse of discretion.

5
6 11. a. To ensure that the right to vote is not denied or abridged
7 on account of race, color, or language-minority group, the
8 enactment or implementation of a covered policy by a covered
9 entity, as defined in this section, shall be subject to preclearance by
10 the Division on Civil Rights or by a designated court as set forth in
11 this section.

12 b. A “covered policy” shall include any new or modified voting
13 qualification, prerequisite to voting, law, ordinance, standard,
14 practice, procedure, regulation, or policy concerning any of the
15 following topics:

- 16 (1) method of election;
- 17 (2) form of government;
- 18 (3) annexation of a political subdivision;
- 19 (4) incorporation of a political subdivision;
- 20 (5) consolidation or division of political subdivisions;
- 21 (6) removal of voters from enrollment lists or other list
22 maintenance activities;
- 23 (7) number, location, or hours of any election day or early
24 voting poll site;
- 25 (8) dates of elections and the election calendar, except with
26 respect to special elections;
- 27 (9) registration of voters;
- 28 (10) assignment of election districts to election day or early
29 voting poll sites;
- 30 (11) location of ballot drop boxes;
- 31 (12) assistance offered to members of a language-minority
32 group; and
- 33 (13) any additional topics designated by the Attorney General
34 pursuant to a rule promulgated under the “Administrative Procedure
35 Act,” P.L.1968, c.140 (C.52:14B-1 et seq.), upon a determination
36 by the Division on Civil Rights that a new or modified voting
37 qualification, prerequisite to voting, law, ordinance, standard,
38 practice, procedure, regulation, or policy concerning such topics
39 may have the effect of denying or abridging the right to vote on
40 account of race, color, or language-minority group.

41 c. A “covered entity” shall include:

- 42 (1) any political subdivision which, within the previous 25
43 years, has become subject to a court order or government
44 enforcement action based upon a finding of any violation of this act,
45 the federal voting rights act, the 15th amendment to the United
46 States Constitution, or a voting-related violation of the 14th
47 amendment to the United States Constitution;

1 (2) any political subdivision which, within the previous 25
2 years, has become subject to at least three court orders or
3 government enforcement actions based upon a finding of any
4 violation of any State or federal civil rights law or the 14th
5 amendment to the United States Constitution concerning
6 discrimination against members of a protected class;

7 (3) any county in which, based on data provided by the Division
8 of Criminal Justice in the New Jersey Department of Law and
9 Public Safety, the combined crime and criminal offense arrest rate
10 of members of any protected class consisting of at least 10,000
11 citizens of voting age or whose members comprise at least 10
12 percent of the citizen voting age population of the county, exceeds
13 the proportion that the protected class constitutes of the citizen
14 voting age population of the county as a whole by at least 20
15 percent at any point within the previous 10 years; or

16 (4) any political subdivision in which, based on data made
17 available by the United States Census, the dissimilarity index of any
18 protected class consisting of at least 25,000 citizens of voting age or
19 whose members comprise at least 10 percent of the citizen voting
20 age population of the political subdivision, is in excess of 50 with
21 respect to non-Hispanic white citizens of voting age within the
22 political subdivision at any point within the previous 10 years.

23 If any covered entity is a political subdivision in which a county
24 board of elections has been established, that county board of
25 elections shall also be deemed a covered entity. If any political
26 subdivision in which a county board of elections has been
27 established contains a covered entity fully within its borders, that
28 political subdivision and that county board of elections shall both be
29 deemed a covered entity.

30

31 12. a. A covered entity may obtain preclearance for a covered
32 policy from the Division on Civil Rights pursuant to the following
33 process:

34 (1) The covered entity shall submit the covered policy in writing
35 to the Division on Civil Rights. If the covered entity is a county
36 board of elections, it shall contemporaneously provide a copy of the
37 covered policy to the Secretary of State.

38 (2) Upon submission of a covered policy for preclearance, as
39 soon as practicable but no later than within 10 days, the Division on
40 Civil Rights shall publish the submission on its website.

41 (3) After publication of a submission, there shall be an
42 opportunity for members of the public to comment on the
43 submission to the Division on Civil Rights within the time periods
44 set forth in this section. To facilitate public comment, the Division
45 on Civil Rights shall provide an opportunity for members of the
46 public to sign up to receive notifications or alerts regarding
47 submission of a covered policy for preclearance.

1 (4) Upon submission of a covered policy for preclearance, the
2 Division on Civil Rights shall review the covered policy, and any
3 public comment, and shall, within the time periods set forth in this
4 section, provide a report and determination as to whether, under this
5 act, preclearance should be granted or denied to the covered policy.
6 Such time period shall run concurrent with the time periods for
7 public comment. The Division on Civil Rights shall not make such
8 determination until the period for public comment is closed. The
9 Division on Civil Rights may request additional information from a
10 covered entity at any time during its review to aid in developing its
11 report and recommendation. The failure to timely comply with
12 reasonable requests for more information may be grounds for the
13 denial of preclearance. The Division on Civil Rights reports and
14 determination shall be posted on its website.

15 (5) In any determination as to preclearance, the Division on
16 Civil Rights shall identify in writing whether it is approving or
17 rejecting the covered policy; provided, however, that the Division
18 on Civil Rights may, in its discretion, designate preclearance as
19 “preliminary” in which case the Division on Civil Rights may deny
20 preclearance within 60 days following the receipt of submission of
21 the covered policy. The Division on Civil Rights shall grant
22 preclearance only if it determines that the covered policy will not
23 diminish the ability of protected class members to participate in the
24 political process and to elect their preferred candidates to office. If
25 the Division on Civil Rights grants preclearance, the covered entity
26 may enact or implement the covered policy immediately.

27 (6) If the Division on Civil Rights denies preclearance, the
28 division shall interpose objections explaining its basis and the
29 covered policy shall not be enacted or implemented.

30 (7) If the Division on Civil Rights fails to respond within the
31 required time frame as established in this section, the covered
32 policy shall be deemed precleared and the covered entity may enact
33 or implement such covered policy.

34 (8) The time periods for public comment, the Division on Civil
35 Rights review, and the determination of the Division on Civil
36 Rights to grant or deny preclearance on submission shall be as
37 follows:

38 (a) For any covered policy concerning the designation or
39 selection of polling locations, the assignment of election districts to
40 a polling location, or the location of ballot drop boxes, whether for
41 election day or the early voting period, the period for public
42 comment shall be five business days. The Division on Civil Rights
43 shall review the covered policy, including any public comment, and
44 make a determination to deny or grant preclearance for such
45 covered policy within 15 days following the receipt of such covered
46 policy.

1 (b) Upon a showing of good cause, the Division on Civil Rights
2 may receive an extension of up to 21 days to make a determination
3 pursuant to this paragraph.

4 (c) For any other covered policy, the period for public comment
5 shall be 10 business days. The Division on Civil Rights shall
6 review the covered policy, including any public comment, within 55
7 days following the receipt of such covered policy and make a
8 determination to deny or grant preclearance for such covered
9 policy. The Division on Civil Rights may invoke up to two
10 extensions of 90 days each.

11 (9) The Attorney General is hereby authorized to promulgate
12 rules for an expedited, emergency preclearance process in the event
13 of a covered policy occurring during or imminently preceding an
14 election during a state of emergency, public health emergency, or
15 state of local disaster, or other exigent circumstances. Any
16 preclearance granted under this provision shall be designated
17 "preliminary" and the Division on Civil Rights may deny
18 preclearance within 60 days following receipt of the covered policy.

19 (10) Appeal of any denial by the Division on Civil Rights may
20 be heard in a Superior Court of New Jersey and taken according to
21 the ordinary rules of appellate procedure. Due to the frequency and
22 urgency of elections, actions brought pursuant to this section shall
23 be subject to expedited pretrial and trial proceedings and receive an
24 automatic calendar preference on appeal.

25 b. If any covered entity enacts or implements a covered policy
26 without seeking preclearance pursuant to this section, or enacts or
27 implements a covered policy notwithstanding the denial of
28 preclearance, either the Division on Civil Rights or any other party
29 with standing to bring an action under this act may bring an action
30 to enjoin the covered policy and to seek sanctions against the
31 political subdivision and officials in violation.

32 c. The Attorney General, in accordance with the "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
34 such rules and regulations as the commissioner deems necessary to
35 effectuate the provisions of this act.

36

37 13. a. (1) No person, whether acting under color of law or
38 otherwise, may engage in acts of intimidation, deception, or
39 obstruction that affects the right of voters to access the elective
40 franchise.

41 (2) A violation of paragraph (1) this section shall be established
42 if:

43 (a) a person uses or threatens to use any force, violence,
44 restraint, abduction or duress, or inflicts or threatens to inflict any
45 injury, damage, harm or loss, or in any other manner practices
46 intimidation that causes or will reasonably have the effect of
47 causing any person to vote or refrain from voting in general or for
48 or against any particular person or for or against any public

1 question submitted to voters at such election; to place or refrain
2 from placing their name upon a registry of voters; or to request or
3 refrain from requesting a mail-in ballot;

4 (b) a person knowingly uses any deceptive or fraudulent device,
5 contrivance or communication, that impedes, prevents or otherwise
6 interferes with the free exercise of the elective franchise by any
7 person, or that causes or will reasonably have the effect of causing
8 any person to vote or refrain from voting in general or for or against
9 any particular person or for or against any public question
10 submitted to voters at such election; to place or refrain from placing
11 their name upon a registry of voters; or to request or refrain from
12 requesting a mail-in ballot; or

13 (c) a person obstructs, impedes, or otherwise interferes with
14 access to any polling place, ballot drop box, or elections office, or
15 obstructs, impedes, or otherwise interferes with any voter in any
16 manner that causes or will reasonably have the effect of causing any
17 delay in voting or the voting process, including the canvassing and
18 tabulation of ballots.

19

20 14. a. Any aggrieved persons or organization whose membership
21 includes aggrieved persons or members of a protected class,
22 organization whose mission, in whole or in part, is to ensure voting
23 access and such mission would be hindered by a violation of this
24 act, or the Attorney General may file an action pursuant to this act
25 in the a Superior Court of the county in which the alleged violation
26 of this act occurred.

27 b. Upon a finding of a violation of any provision of this act, the
28 court shall implement appropriate remedies that are tailored to
29 remedy the violation, including, but not limited to, providing for
30 additional time to cast a ballot that may be counted in the election at
31 issue. Any party who shall violate any of the provisions of this act
32 or who shall aid the violation of any of said provisions shall be
33 liable to any prevailing plaintiff party for damages, including
34 nominal damages for any violation, and compensatory or punitive
35 damages for any intentional violation.

36

37 15. a. In any action or investigation to enforce any provision of
38 this act, the Attorney General shall have the authority to take proof
39 and determine relevant facts and to issue subpoenas in accordance
40 with the civil and criminal laws of this State.

41 b. Given the frequency of elections, the severe consequences
42 and irreparable harm of holding elections under unlawful
43 conditions, and the expenditure to defend potentially unlawful
44 conditions that benefit incumbent officials, actions brought pursuant
45 to this act shall be subject to expedited pretrial and trial proceedings
46 and receive an automatic calendar preference. In any action
47 alleging a violation of this section in which a plaintiff party seeks

1 preliminary relief with respect to an upcoming election, the court
2 shall grant relief if it determines that:

3 (1) plaintiffs are more likely than not to succeed on the merits;
4 and

5 (2) it is possible to implement an appropriate remedy that would
6 resolve the alleged violation in the upcoming election.

7 c. In any action to enforce any provision of this act, the court
8 shall allow the prevailing plaintiff party, other than the State or
9 political subdivision thereof, a reasonable attorneys' fee, litigation
10 expenses including, but not limited to, expert witness fees and
11 expenses as part of the costs. A plaintiff will be deemed to have
12 prevailed when, as a result of litigation, the defendant party yields
13 much or all of the relief sought in the suit. Prevailing defendant
14 parties shall not recover any costs, unless the court finds the action
15 to be frivolous, unreasonable, or without foundation.

16
17 16. The provisions of this act shall apply to all elections for any
18 elected public office or electoral choice within the State or any
19 political subdivision. To ensure voters of race, color, and language-
20 minority groups have equitable access to fully participate in the
21 electoral process, the provisions of this act shall apply
22 notwithstanding any other provision of law, rule, or regulation to
23 the contrary.

24
25 17. The provisions of this act, P.L. , c. (C.)(pending
26 before the Legislature as this bill), shall be severable and if any
27 section, subsection, paragraph, subparagraph, sentence, or other
28 portion of this act is for any reason held or declared by any court of
29 competent jurisdiction to be unconstitutional or preempted by
30 federal law, or the applicability of that portion to any person or
31 facility is held invalid, the remainder of this act shall not thereby be
32 deemed to be unconstitutional, preempted, or invalid.

33
34 18. This act shall take effect on the first day of the 18th month
35 next following the date of enactment, except that the Attorney
36 General may take any anticipatory action in advance thereof as shall
37 be necessary for the implementation of this act.

38

39

40

STATEMENT

41

42 This bill establishes the “John R. Lewis Voting Rights Act of New
43 Jersey” and is modeled after the “John R. Lewis Voting Rights Act of
44 New York.”

45 Under the bill, all statutes, rules, and regulations, in this State
46 including all local laws or ordinances related to the elective franchise
47 must be construed liberally in favor of:

1 (1) protecting the right of voters to have their ballot cast and
2 counted;

3 (2) ensuring that eligible voters are not impaired in registering to
4 vote; and

5 (3) ensuring voters of race, color, and language-minority groups
6 have equitable access to fully participate in the electoral process in
7 registering to vote and voting.

8 The bill prohibits the authority to prescribe or maintain voting or
9 elections policies and practices to be so exercised as to unnecessarily
10 deny or abridge the right to vote. The bill also prohibits a county
11 board of elections or political subdivision from using a method of
12 election that has the effect of impairing the ability of members of a
13 protected class to elect candidates of their choice or influence the
14 outcome of elections, as a result of vote dilution. The bill requires any
15 policy and practice that burdens the right to vote must be narrowly
16 tailored to promote a compelling policy justification that must be
17 supported by substantial evidence. The bill provides factors for
18 determining if a violation of the bill has occurred, including if a
19 voter's right to vote has been violated or if the voter has experienced
20 vote dilution.

21 Under the bill, if a violation of the provision of the bill occurs, the
22 bill provides a remedy process, including for apportionment and
23 redistricting maps. The bill provides that after a New Jersey Voting
24 Rights Act notification letter is mailed from a prospective plaintiff to a
25 political subdivision the political submission may pass a New Jersey
26 Voting Rights Act resolution reaffirming: (1) the political
27 subdivision's intention to enact and implement a remedy for a potential
28 violation of the bill; (2) specific steps the political subdivision will
29 undertake to facilitate approval and implementation of such a remedy;
30 and (3) a schedule for enacting and implementing such a remedy.

31 The bill provides that if the governing body of a political
32 subdivision lacks the authority under this act or applicable State law or
33 local laws to enact or implement a remedy identified in the resolution,
34 or fails to enact or implement a remedy identified in the resolution,
35 within 90 days after the passage of the resolution, or if the political
36 subdivision is a covered entity as defined by the bill, the governing
37 body of the political subdivision must coordinate with the Division on
38 Civil Rights in the New Jersey Department of Law and Public Safety
39 to resolve the violation, including reaffirming that any proposal is
40 unlikely to violate the United States Constitution, New Jersey
41 Constitution, or any federal or State law, would not diminish the
42 ability of protected class members to participate in the political process
43 and to elect their preferred candidates to office; and is feasible to
44 implement.

45 Under the bill, the Attorney General and the Division on Civil
46 Rights are provided with certain preclearance powers. The bill
47 provides that if certain political subdivisions that have been the subject
48 to court order or government enforcement action based on violations

1 of the bill; the federal Voting Rights Act of 1965, as amended; the
2 15th amendment to the United States Constitution, or a voting-related
3 violation of the 14th amendment to the United States Constitution,
4 may be subject to preclearance, which is the process of obtaining prior
5 approval from the Division on Civil Rights or a court of this State for
6 any changes related to election procedures in that political subdivision.

7 The bill provides assistance to language-minority groups. Under
8 the bill, a county board of elections or a political subdivision that
9 administers elections must provide language-related assistance in
10 voting and elections to a language-minority group in a political
11 subdivision if, based on data from the United States Census Bureau
12 American Community Survey, or data of comparable quality collected
13 by a public office, that:

14 (1) more than two percent, but in no instance fewer than 300
15 individuals, of the citizens of voting age of a political subdivision are
16 members of a single language-minority group and are limited English
17 proficient; or

18 (2) more than 4,000 of the citizens of voting age of such political
19 subdivision are members of a single language-minority group and are
20 limited English proficient.

21 The bill further provides that a county board of elections or political
22 subdivision required to provide language assistance to a particular
23 language-minority group pursuant to this section must provide voting
24 materials in the covered language of an equal quality of the
25 corresponding English language materials, including registration or
26 voting notices, forms, instructions, assistance, or other materials or
27 information relating to the electoral process, including ballots.

28 Under the bill, any aggrieved persons or organization whose
29 membership includes aggrieved persons or members of a protected
30 class, organization whose mission, in whole or in part, is to ensure
31 voting access and such mission would be hindered by a violation of
32 this bill, or the Attorney General may file an action pursuant to the bill
33 in court. The bill provides that any action or investigation to enforce
34 any provision of this bill, the Attorney General would have the
35 authority to take proof and determine relevant facts and to issue
36 subpoenas in accordance with the civil and criminal laws of this State.

37 The bill also contains a severability provision. If any section,
38 subsection, paragraph, subparagraph, sentence, or other portion of the
39 bill is for any reason held or declared by any court of competent
40 jurisdiction to be unconstitutional or preempted by federal law, or the
41 applicability of that portion to any person or facility is held invalid, the
42 remainder of the bill would not thereby be deemed to be
43 unconstitutional, preempted, or invalid.

44 The purpose of this bill is to:

45 (1) encourage participation in the elective franchise by all eligible
46 voters to the maximum extent;

47 (2) ensure that eligible voters who are members of racial, ethnic,
48 and language minority groups have an equal opportunity to participate

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1 in the political processes of this State and exercise the elective
2 franchise;

3 (3) improve the quality and availability of demographic and
4 election data; and

5 (4) protect eligible voters against intimidation and deceptive
6 practices.

7 This bill would take effect on the first day of the 18th month
8 next following the date of enactment, except that the Attorney
9 General may take any anticipatory action in advance thereof.